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35  
COMPILED

LAWS

—:OF THE:—

CHEROKEE NATION

(  
Published by Authority of the National Council.

TAHLEQUAH, I. T.:  
NATIONAL ADVOCATE PRINT.  
1881.

L19427

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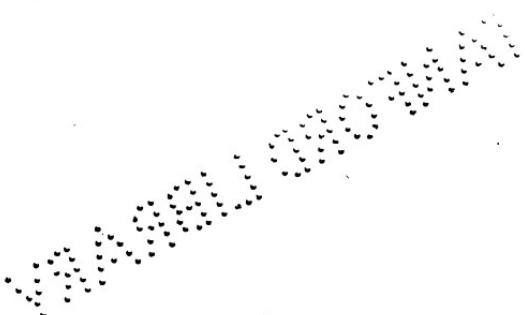
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NOTE TO READERS.—The dates attached to certain sections are to be understood as signifying the date of the passage or approval of the preceding clause or section.

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# CONSTITUTION

AND

# LAWs

OF THE

# CHEROKEE NATION.

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AN ACT authorizing the compilation of the Laws of the Cherokee Nation.

*Be it enacted by the National Council:* That the Principal Chief be, and he is hereby authorized, to appoint two competent persons, one to collect and compile the laws of the Cherokee Nation now in force, and the other to translate the same into the Cherokee language.

It shall be the duty of the compiler to classify and arrange, under appropriate heads, all enactments pertaining to a particular subject; embrace in one act as far as practicable the original acts and amendments thereto, and omit all acts that have been repealed, or have become inoperative by ceasing to be applicable to existing affairs, and to prepare an index to the same.

The work above required shall be commenced and accomplished as soon as practicable; and, when com-

pleted, submitted to and approved by the Principal Chief, he shall be, and is hereby, authorized to appoint an Agent, on part of the Cherokee Nation, for the purpose of having the laws, herein authorized to be compiled and translated, correctly published in book form, to the number of one thousand copies in the English language, and one thousand in the Cherokee, as speedily as it can be done, for the use of the Courts and citizens of the country. And the Principal Chief is hereby authorized to draw preferred warrants upon the National Treasury upon the certificate of the Agent, approved by the Principal Chief, to liquidate the expenses of said publication.

The compensation of the compiler and translator of the laws, as provided in this act, shall be the sum of three hundred dollars each, when their work as herein-before defined, shall be completed and approved: *Provided*, that the said entire work shall be done, approved, and made ready for publication, on, or before the first day of July, 1881, and the Principal Chief is hereby authorized to draw preferred warrants accordingly.

Approved, November 19th, 1880.

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AN ACT authorizing the translation, etc., of the Laws of 1880.

*Be it enacted by the National Council:* That the Principal Chief be, and he is hereby authorized, to have the laws and joint resolutions of the regular session of 1880, of the National Council, translated and added to

the English and Cherokee copies of Compiled Laws, that he is already authorized to have printed, and the sum of one hundred and twenty-five dollars, or so much thereof as may be necessary, is hereby appropriated out of any money belonging to the General Fund, and not otherwise appropriated, to defray the expenses thereof, and the Principal Chief is hereby authorized to draw preferred warrants to pay for the same.

Approved, December 2d, 1880.

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#### APPOINTMENT OF COMPILER.

EXECUTIVE DEPARTMENT, CHEROKEE NATION,  
TAHLEQUAH, December 24th, 1880.

*Capt. John L. Adair, Tahlequah, C. N.:*

SIR: In accordance with the act of the National Council "authorizing the compilation of the laws of the Cherokee Nation," approved November 19th, 1880, you are hereby respectfully informed that you have been appointed to do the labor and receive the compensation of compiler, pursuant to the provisions of said law, a copy of which is herewith enclosed for your information and guidance.

Respectfully,

[Signed.]

D. W. BUSHYHEAD,  
Principal Chief.

## APPOINTMENT OF TRANSLATOR.

EXECUTIVE DEPARTMENT, CHEROKEE NATION,  
TAHLEQUAH, December 24th, 1880.

*Mr. H. T. Landrum:*

SIR: Pursuant to the act of the National Council, "authorizing the compilation of the laws of the Cherokee Nation," approved November 19th, 1880, you are hereby respectfully informed that you have been appointed to translate the laws, to be compiled according to said act. A copy of the act is herewith furnished you for your information and guidance.

Respectfully,

[Signed.]

D. W. DUSHYHEAD,  
Principal Chief.

# ACT OF UNION

BETWEEN THE

## EASTERN AND WESTERN CHEROKEES.

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WHEREAS, our fathers have existed as a separate and distinct Nation, in the possession and exercise of the essential and appropriate attributes of sovereignty, from a period extending into antiquity, beyond the records and memory of man; *and whereas*, these attributes, with the rights and franchises which they involve, remain still in full force and virtue; as do also the national and social relations of the Cherokee people to each other, and to the body politic, excepting in those particulars which have grown out of the provisions of the treaties of 1817 and 1819, between the United States and the Cherokee Nation, under which a portion of our people removed to this country, and became a separate community, (but the force of circumstances have recently compelled the body of the Eastern Cherokees to remove to this country, thus bringing together again the two branches of the ancient Cherokee family) it has become essential to the general welfare that a Union should be formed and a system of government matured, adapted to their present condition, and providing equally for the protection of each individual in the enjoyment of all his rights,

*Therefore*, we, the people composing the Eastern and

Western Cherokee Nation, in national convention assembled, by virtue of our original unalienable rights, do hereby solemnly and mutually agree to form ourselves into one body politic, under the style and title of the CHEROKEE NATION.

In view of the Union now formed, and for the purpose of making satisfactory adjustments of all unsettled business which may have arisen before the consummation of this Union, we agree that such business shall be settled according to the provisions of the respective laws under which it originated, and the courts of the Cherokee Nation shall be governed in their decisions accordingly. Also, that the delegation authorized by the Eastern Cherokees to make arrangements with Major General Scott, for their removal to this country, shall continue in charge of that business, with their present powers, until it shall be finally closed. And, also, that all rights and titles to public Cherokee lands on the east or west of the river Mississippi, with all other public interests which may have vested in either branch of the Cherokee family, whether inherited from our fathers or derived from any other source, shall henceforward vest entire and unimpaired in the Cherokee Nation, as constituted by this Union.

Given under our hands, at Illinois Camp-ground,  
this 12th day of July, 1838.

By order of the National Convention.

GEORGE LOWREY,  
President of the Eastern Cherokees.  
GEORGE GUESS, his [X] mark,  
President of the Western Cherokees.

**EASTERN CHEROKEES.**

R. TAYLOR, V. P.  
 JAMES BROWN, V. P.  
 TE-KE-CHU-LAS-KEE, V. P.  
 GEORGE HICKS,  
 JOHN BENGE,  
 THOMAS FOREMAN,  
 ARCHIBALD CAMPBELL,  
 JESSE BUSHYHEAD,  
 LEWIS ROSS,  
 EDWARD GUNTER,  
 TE-NAH-LA-WE-STAH,  
 STEPHEN FOREMAN,  
 DANIEL MCCOY,

By order of the National Convention,  
 JOHN ROSS,

**Principal Chief, Eastern Cherokees.**  
 GOING SNAKE,  
 Speaker of Council.

**WESTERN CHEROKEES.**

TOBACCO WILL, V. P.  
 DAVID MELTON, V. P.  
 JOHN DREW, V. P.  
 GEORGE BREWER,  
 THOMAS CANDY,  
 MOSES PARRIS,  
 JAMES CAMPBELL,  
 LOONEY RILEY,  
 CHARLES GOURD,  
 LEWIS MELTON,  
 YOUNG WOLFE,  
 CHARLES COODY,  
 AH-STO-LA-TA,  
 JACK SPEARS,  
 LOONEY PRICE.

By order of the National Convention,  
 August 23d, 1839.  
 JOHN LOONEY, his [x] mark,  
 Acting Principal Chief,  
 Western Cherokees.

The foregoing instrument was read, considered, and approved by us, this 23d day of August, 1839.

AARON PRICE,  
 MAJOR PULLUM,  
 YOUNG ELDRERS,  
 DEER TRACK,  
 YOUNG PUPPY,  
 TURTLE FIELDS,  
 JULY,  
 THE EAGLE,  
 THE CRYING BUFFALO,

And a great number of respectable old settlers and late emigrants too numerous to be copied.

# CONSTITUTION

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The Eastern and Western Cherokees having again re-united, and become one body politic, under the style and title of the CHEROKEE NATION: Therefore,

We, the people of the Cherokee Nation, in National Convention assembled, in order to establish justice, insure tranquility, promote the common welfare, and to secure to ourselves and our posterity the blessings of freedom—acknowledging with humility and gratitude, the goodness of the Sovereign Ruler of the Universe, in permitting us so to do, and imploring His aid and guidance in its accomplishment—do ordain and establish this Constitution for the government of the Cherokee Nation.

## ARTICLE I.

Sec. 1. The boundary of the Cherokee Nation shall be that described in the treaty of 1833, between the United States and Western Cherokees, subject to such extension as may be made in the adjustment of the unfinished business with the United States.

Sec. 2. The lands of the Cherokee Nation shall remain common property; but the improvements made thereon, and in the possession of the citizens of the Nation, are the exclusive and indefeasible property of the citizens respectively who made, or may rightfully

be, in possession of them: *Provided*, that the citizens of the Nation possessing exclusive and indefeasible right to their improvements, as expressed in this article, shall possess no right or power to dispose of their improvements, in any manner whatever, to the United States, individual states, or to individual citizens thereof; and that, whenever any citizen shall remove with his effects out of the limits of this Nation, and become a citizen of any other government, all his rights and privileges as a citizen of this Nation shall cease: *Provided, nevertheless*, that the National Council shall have power to re-admit, by law, to all the rights of citizenship, any such person or persons who may, at any time, desire to return to the Nation, on memorializing the National Council for such re-admission.

Moreover, the National Council shall have power to adopt such laws and regulations, as its wisdom may deem expedient and proper, to prevent citizens from monopolizing improvements, with the view of speculation.

## ARTICLE II.

SEC. 1. The power of this government shall be divided into three distinct departments:—the Legislative, the Executive, and the Judicial.

SEC. 2. No person or persons belonging to one of these departments shall exercise any of the powers properly belonging to either of the others, except in the cases hereinafter expressly directed or permitted.

## ARTICLE III.

SEC. 1. The legislative power shall be vested in two distinct branches:—a National Committee and Council, and the style of their acts shall be:—*Be it enacted by the National Council.*

SEC. 2. The National Council shall make provision, by law, for laying off the Cherokee Nation into eight districts; and, if subsequently it should be deemed expedient, one or two may be added thereto.

SEC. 3. The National Committee shall consist of two members from each district, and the Council shall consist of three members from each district; to be chosen by the qualified electors in their respective districts for two years; the elections to be held in the respective districts every two years, at such times and places as may be directed by law.

The National Council shall, after the present year, be held annually, to be convened on the first Monday in October, at such place as may be designated by the National Council, or, in case of emergency, by the Principal Chief.

SEC. 4. Before the districts shall be laid off, any election which may take place, shall be by general vote of the electors throughout the Nation for all officers to be elected.

The first election for all the officers of the government:—Chiefs, Executive Council, members of the National Council, Judges and Sheriffs,—shall be held at Tahlequah, before the rising of this convention; and the term of service of all officers elected previous to the

first Monday in October, 1839, shall be extended to embrace, in addition to the regular constitutional term, the time intervening from their election to the first Monday in October, 1839.

SEC. 5. No person shall be eligible to a seat in the National Council but a free Cherokee male citizen, who shall have attained to the age of twenty-five years.

The descendants of Cherokee men by all free women except the African race, whose parents may have been living together as man and wife, according to the customs and laws of this Nation, shall be entitled to all the rights and privileges of this Nation as well as the posterity of Cherokee women by all free men. No person who is of negro or mulatto parentage, either by the father's or mother's side, shall be eligible to hold any office of profit, honor or trust, under this government.

SEC. 6. The electors and members of the National Council shall in all cases, except those of treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and at the National Council, in going to and returning.

SEC. 7. In all elections by the people, the electors shall vote *viva voce*.

All free male citizens, who shall have attained to the age of eighteen years, shall be equally entitled to vote at all public elections.

SEC. 8. Each branch of the National Council shall judge of the qualifications and returns of its own members, and determine the rules of its proceedings,

punish a member for disorderly behavior, and, with the concurrence of two-thirds, expel a member; but not a second time for the same offense.

SEC. 9. Each branch of the National Council, when assembled, shall choose its own officers; a majority of each shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalty as each branch may prescribe.

SEC. 10. The members of the National Committee shall each receive from the public treasury a compensation for their services, which shall be three dollars per day during their attendance at the National Council; and the members of the Council shall each receive three dollars per day for their services during their attendance at the National Council; *provided*, that the same may be increased or diminished by law; but no alteration shall take effect during the period of service of the members of the National Council by whom such alteration may have been made.

SEC. 11. The National Council shall regulate by law, by whom and in what manner, writs of elections shall be issued to fill the vacancies which may happen in either branch thereof.

SEC. 12. Each member of the National Council, before he takes his seat, shall take the following oath or affirmation:

I, A. B., do solemnly swear (or affirm, as the case may be,) that I have not obtained my election by

bribery, treats, or any undue and unlawful means, used by myself or others, by my desire or approbation for that purpose: that I consider myself constitutionally qualified as a member of \_\_\_\_\_, and that on all questions and measures which may come before me, I will so give my vote, and so conduct myself, as in my judgment shall appear most conducive to the interest and prosperity of this Nation, and that I will bear true faith and allegiance to the same, and to the utmost of my ability and power, observe, conform to, support and defend, the constitution thereof.

SEC. 13. No person who may be convicted of felony shall be eligible to any office or appointment of honor, profit, or trust, within this Nation.

SEC. 14. The National Council shall have power to make all laws and regulations which they shall deem necessary and proper for the good of the Nation, which shall not be contrary to this constitution.

SEC. 15. It shall be the duty of the National Council to pass such laws as may be necessary and proper to decide differences by arbitration, to be appointed by the parties who may choose that summary mode of adjustment.

SEC. 16. No power of suspending the laws of this Nation shall be exercised, unless by the National Council or its authority.

SEC. 17. No retrospective law, nor any law impairing the obligation of contracts, shall be passed.

SEC. 18. The National Council shall have power to make laws for laying and collecting taxes for the purpose of raising a revenue.

SEC. 19. All bills making appropriations shall originate in the National Committee, but the Council may propose amendments or reject the same. All other

bills may originate in either branch, subject to the concurrence or rejection of the other.

SEC. 20. All acknowledged treaties shall be the supreme law of the land, and the National Council shall have the sole power of deciding on the construction of all treaty stipulations.

SEC. 21. The Council shall have the sole power of impeaching. All impeachments shall be tried by the National Committee. When sitting for that purpose, the member shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 22. The Principal Chief, Assistant Principal Chief, and all civil officers, shall be liable to impeachment for misdemeanor in office, but judgment in such cases shall not extend further than removal from office, and disqualification to hold any office of honor, trust or profit, under the government of this Nation.

The party, whether convicted or acquitted, shall, nevertheless, be liable to indictment, trial, judgment, and punishment, according to law.

#### ARTICLE IV.

SEC. 1. The supreme executive power of this Nation shall be vested in a Principal Chief, who shall be styled "The Principal Chief of the Cherokee Nation."

The Principal Chief shall hold his office for the term of four years, and shall be elected by the qualified electors, on the same day, and at the places where they

shall respectively vote for members to the National Council.

The returns of the election for Principal Chief shall be sealed up and directed to the President of the National Committee, who shall open and publish them in the presence of the National Council assembled. The person having the highest number of votes shall be Principal Chief, but if two or more shall be equal and highest in votes, one of them shall be chosen by joint vote of both branches of the Council. The manner of determining contested elections shall be directed by law.

SEC. 2. No person, except a natural born citizen, shall be eligible to the office of Principal Chief; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years.

SEC. 3. There shall also be chosen at the same time by the qualified electors in the same manner for four years, an Assistant Principal Chief, who shall have attained to the age of thirty-five years.

SEC. 4. In case of the removal of the Principal Chief from office, or of his death or resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Assistant Principal Chief, until the disability be removed, or the vacancy filled by the National Council.

SEC. 5. The National Council may, by law, provide for the case of removal, death, resignation, or disability of both the Principal and Assistant Principal Chiefs, declaring what officer shall then act as Principal Chief

until the disability be removed, or a Principal Chief shall be elected.

SEC. 6. The Principal and Assistant Principal Chief shall, at stated times, receive for their services a compensation which shall neither be increased or diminished during the period for which they shall have been elected; and they shall not receive, within that period, any other emolument from the Cherokee Nation or any other government.

SEC. 7. Before the Principal Chief enters on the execution of his office, he shall take the following oath or affirmation:

I do solemnly swear or affirm that I will faithfully execute the duties of Principal Chief of the Cherokee Nation, and will, to the best of my ability, preserve, protect, and defend the constitution of the Cherokee Nation.

SEC. 8. He may, on extraordinary occasions, convene the National Council at the seat of government.

SEC. 9. He shall, from time to time, give to the National Council information of the state of the government, and recommend to their consideration such measures as he may deem expedient.

SEC. 10. He shall take care that the laws be faithfully executed.

SEC. 11. It shall be his duty to visit the different districts at least once in two years, to inform himself of the general condition of the country.

SEC. 12. The Assistant Principal Chief shall, by virtue of his office, aid and advise the Principal Chief

in the administration of the government at all times during his continuance in office.

SEC. 13. Vacancies that may occur in offices, the appointment of which is vested in the National Council, shall be filled by the Principal Chief during the recess of the National Council by granting commissions which shall expire at the end of the next session thereof.

SEC. 14. Every bill which shall pass both branches of the National Council shall, before it becomes a law, be presented to the Principal Chief; if he approve, he shall sign it; but if not, he shall return it, with his objections, to that branch in which it may have originated, who shall enter the objections at large on their journals, and proceed to re-consider it; if, after such re-consideration, two-thirds of that branch shall agree to pass the bill, it shall be sent, together with the objections, to the other branch, by which it shall likewise be re-considered, and, if approved by two-thirds of that branch, it shall become a law. If any bill shall not be returned by the Principal Chief within five days, (Sundays excepted), after the same has been presented to him, it shall become a law in like manner as if he had signed it, unless the National Council, by their adjournment, prevent its return, in which case it shall be a law, unless sent back within three days after their next meeting.

SEC. 15. Members of the National Council, and all officers, executive and judicial, shall be bound by oath

to support the constitution of this Nation, and to perform the duties of their respective offices with fidelity.

SEC. 16. In case of disagreement between the two branches of the National Council with respect to the time of adjournment, the Principal Chief shall have power to adjourn the same to such a time as he may deem proper; *provided*, it be not a period beyond the next constitutional meeting thereof.

SEC. 17. The Principal Chief shall, during the session of the National Council, attend at the seat of government.

SEC. 18. There shall be a council composed of five persons, to be appointed by the National Council, whom the Principal Chief shall have full power at his discretion to assemble; he, together with the Assistant Principal Chief and the counselors, or a majority of them, may, from time to time, hold and keep a council for ordering and directing the affairs of the Nation according to law; *provided*, the National Council shall have power to reduce the number, if deemed expedient, after the first term of service, to a number not less than three.

SEC. 19. The members of the executive council shall be chosen for the term of two years.

SEC. 20. The resolutions and advice of the council shall be recorded in a register, and signed by the members agreeing thereto, which may be called for by either branch of the National Council; and any counselor may enter his dissent to the majority.

SEC. 21. The treasurer of the Cherokee Nation shall be chosen by a joint vote of both branches of the National Council, for the term of four years.

SEC. 22. The treasurer shall, before entering on the duties of his office, give bond to the Nation, with sureties to the satisfaction of the National Council, for the faithful discharge of his trust.

SEC. 23. No money shall be drawn from the treasury but by warrant from the Principal Chief, and in consequence of appropriations made by law.

SEC. 24. It shall be the duty of the treasurer to receive all public moneys, and to make a regular statement and account of the receipts and expenditures of all public moneys at the annual session of the National Council.

#### ARTICLE V.

SEC. 1. The judicial powers shall be vested in a Supreme Court, and such circuit and inferior courts as the National Council may, from time to time, ordain and establish.

SEC. 2. The Judges of the Supreme and Circuit courts shall hold their commissions for the term of four years, but any of them may be removed from office on the address of two-thirds of each branch of the National Council to the Principal chief for that purpose.

SEC. 3. The Judges of the Supreme and Circuit Courts shall, at stated times, receive a compensation which shall not be diminished during their continuance

in office, but they shall receive no fees or perquisites of office, nor hold any other office of profit or trust under the government of this Nation, or any other power.

SEC. 4. No person shall be appointed a judge of any of the courts, until he shall have attained the age of thirty years.

SEC. 5. The Judges of the Supreme and Circuit Courts shall be elected by the National Council, and there shall be appointed in each district as many justices of the peace as it may be deemed expedient for the public good, whose powers, duties and duration in office, shall be clearly designated by law.

SEC. 6. The Judges of the Supreme Court and of the Circuit Courts, shall have complete criminal jurisdiction in such cases, and in such manner, as may be pointed out by law.

SEC. 7. No judge shall sit on trial of any cause when the parties are connected [with him] by affinity or consanguinity, except by consent of the parties. In case all the judges of the Supreme Court shall be interested in the issue of any cause, or related to all or either of the parties, the National Council may provide by law for the selection of a suitable number of persons of good character and knowledge, for the determination thereof, and who shall be specially commissioned for the adjudication of such case by the Principal Chief.

SEC. 8. All writs and other process shall run "in the name of the Cherokee Nation," and bear test and be signed by the respective clerks.

SEC. 9. Indictments shall conclude—"against the peace and dignity of the Cherokee Nation."

SEC. 10. The Supreme Court shall, after the present year, hold its session annually at the seat of government, to be convened on the first Monday of October in each year.

SEC. 11. In all criminal prosecutions the accused shall have the right of being heard; of demanding the nature and cause of the accusation; of meeting the witnesses face to face; of having compulsory process for obtaining witnesses in his or their favor; and in prosecutions by indictment or information, a speedy public trial, by an impartial jury of the vicinage; nor shall the accused be compelled to give evidence against himself.

SEC. 12. The people shall be secure in their persons, houses, papers and possessions, from unreasonable seizures and searches, and no warrant to search any place, or to seize any person or things, shall issue, without describing them as nearly as may be, nor without good cause, supported by oath or affirmation.

SEC. 13. All persons shall be bailable by sufficient securities, unless for capital offenses, where the proof is evident or presumption great.

## ARTICLE VI.

SEC. 1. No person who denies the being of a God, or future state of reward and punishment, shall hold any office in the civil department in this Nation.

SEC. 2. The free exercise of religious worship, and serving God without distinction, shall forever be

enjoyed within the limits of this Nation: *provided*, that this liberty of conscience shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this nation.

SEC. 3. When the National Council shall determine the expediency of appointing delegates, or other public agents, for the purpose of transacting business with the government of the United States, the Principal Chief shall recommend, and, by the advice and consent of the National Committee, appoint and commission such delegates or public agents accordingly. On all matters of interest, touching the rights of the citizens of this Nation, which may require the attention of the United States government, the Principal Chief shall keep up a friendly correspondence with that government through the medium of its proper officers.

SEC. 4. All commissions shall be "in the name and by the authority of the Cherokee Nation," and be sealed with the seal of the Nation, and signed by the Principal Chief. The Principal Chief shall make use of his private seal until a National seal shall be provided.

SEC. 5. A sheriff shall be elected in each district, by the qualified electors thereof, who shall hold his office two years, unless sooner removed. Should a vacancy occur, subsequent to an election, it shall be filled by the Principal Chief, as in other cases, and the person so appointed shall continue in office until the next regular election.

SEC. 6 No person shall, for the same offense, be

twice put in jeopardy of life or limb; nor shall the property of any person be taken and applied to public use without a just and fair compensation: *provided*, that nothing in this clause shall be so construed, as to impair the right and power of the National Council to lay and collect taxes.

SEC. 7. The right of trial by jury shall remain inviolate, and every person, for injury sustained in person, property or reputation, shall have remedy by due course of law.

SEC. 8. The appointment of all officers, not otherwise directed by this constitution, shall be vested in the National Council.

SEC. 9. Religion, morality and knowledge, being necessary to good government, the preservation of liberty, and the happiness of mankind, schools, and the means of education, shall forever be encouraged in this Nation.

SEC. 10. The National Council may propose such amendments to this constitution as two-thirds of each branch may deem expedient, and the Principal Chief shall issue a proclamation, directing all civil officers, of the several districts, to promulgate the same as extensively as possible within their respective districts at least six months previous to the next general election. And if, at the first session of National Council, after such general election, two-thirds of each branch shall, by ayes and noes, ratify such proposed amendments, they shall be valid to all intent and purposes, as parts of this constitution; *provided*, that such proposed

amendments shall be read on three several days in each branch, as well when the same are proposed, as when they are ratified.

Done in Convention at Tahlequah, Cherokee Nation, this sixth day of September, 1839.

GEORGE LOWREY,  
President of the National Convention.

HAIR CONRAD, his X mark,  
JOHN BENGE, his X mark,  
ARCHIBALD CAMPBELL, his X mark,  
THOMAS CANDY, JOHN DREW,  
GEORGE GUESS, his X mark,  
WALTER SCOTT ADAIR,  
YOUNG ELDERS, his X mark,  
WILL SHOREY COODEY,  
THOMAS FOREMAN, RICHARD TAYLOR,  
THOMAS FOX TAYLOR,  
O-KAN-STO-TAH LOGAN, his X mark,  
JAMES SPEARS, his X mark,  
JOHN SPEARS,  
STEPHEN FOREMAN,  
YOUNG GLASS, his X mark,  
LOONEY PRICE,  
TOBACCO WILL, his X mark,  
MAJOR PULLUM, his X mark,  
MOSES PARRIS,  
GEORGE WASHINGTON GUNTER,  
KENCH LOGAN, his X mark,  
YOUNG WOLF, JOS. MARTIN LYNCH,  
SAL-LA-TEE-SKEE WATTS, his X mark,  
GEORGE BREWER, his X mark,  
JOSHUA BUFFINGTON,  
JESSE BUSHYHEAD, JESSE RUSSELL,  
JOHN FLETCHER BOOT, his X mark,  
CRYING BUFFALO, his X mark,  
BARK FLUTE, his X mark,  
OO-LA-YO-A, his X mark,  
SOFT SHELL TURTLE, his X mark,

EDWARD GUNTER,  
DANIEL COLSTON, his X mark,  
LEWIS ROSS, GEORGE HICKS,  
TURTLE FIELDS, his X mark,  
ELIJAH HICKS,  
TAH-LAH-SEE-NEE, his X mark,  
JAMES BROWN, CHARLES COODEY,  
RILEY KEYS, DANIEL MCCOY,  
LEWIS MELTON.

# PROCLAMATION

AND

## AMENDMENTS TO THE CONSTITUTION.

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*ADOPTED NOVEMBER 26, 1866.*

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### PROCLAMATION BY THE PRINCIPAL CHIEF.

WHEREAS, The National Council adopted certain amendments to the Constitution of the Cherokee Nation, and submitted the same to a general convention of the people of the Cherokee Nation, called at Tahlequah, on the 26th day of November, A. D. 1866, and which said amendments, with the preamble thereto attached, were in the following words, to-wit:

WHEREAS, By the treaty executed at Washington, on the 19th day of July, A. D. 1866, between the United States and the Cherokee Nation, through its delegation, ratified by the Senate and officially promulgated by the President of the United States, August 11th, 1866, certain things were agreed to between the parties to said treaty, involving changes in the Constitution of the Cherokee Nation, which changes cannot be accomplished by the usual mode, and—

WHEREAS, It is the desire of the people and government of the Cherokee Nation, to carry out in good

faith all of its obligations, to the end that law and order be preserved, and the institutions of their government maintained: therefore,

*Be it resolved by the National Council:* That the following *amendments* to the Constitution of the Cherokee Nation be submitted to a convention of the Cherokee people, to assemble at Tahlequah, on the twenty-sixth (26th) day of November, A. D. 1866, under the proclamation of the Principal Chief; and should said amendments, hereunto annexed, be ratified by said convention, then they shall be officially published, and declared by the Principal Chief to be, and shall constitute, a part or parts of the Constitution of the Cherokee Nation.

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## A M E N D M E N T S .

### AMENDMENTS TO ARTICLE I.

**Sec. 1.** The boundary of the Cherokee Nation shall be that described in the treaty of 1833, between the United States and the Western Cherokees, subject to such modifications as may be made necessary by the 17th article of the treaty concluded at Washington City, on the 19th day of July, 1866, between the United States and the Cherokee Nation.

**Sec. 2.** The lands of the Cherokee Nation shall remain common property until the National Council shall request the survey and allotment of the same, in

accordance, with the provisions of article 20th of the treaty of 19th of July, 1866, between the United States and the Cherokee Nation.

### AMENDMENTS TO ARTICLE III.

SEC. 1. The Upper House of the National Council, known as the National Committee, shall be hereafter known and styled the Senate of the Cherokee Nation, and shall consist of two senators for every district in the Cherokee Nation.

SEC. 2. The Council shall consist of two members from each district, and when a district shall have to exceed two hundred voters, it shall have an additional member, and for every additional two hundred voters in said district, upwards of four hundred, it shall have an additional member: *provided*, that when any district shall have less than one hundred voters according to the census, it shall still be entitled to one representative.

SEC. 3. In order to ascertain and fix the representation to the Council, provided for by the preceding section, the National Council shall cause to be taken, as soon as practicable, a census of the population of the Cherokee Nation, according to districts. A second census shall be taken, in like manner, in the year 1870, and each ten years thereafter, and the National Council shall regularly apportion representation among the several districts, as provided in the preceding section, agreeably to such census. The first apportionment,

provided for above, shall be made before the first day of June, and shall govern the election to be held on the first Monday in August, 1867.

SEC. 4. The National Council shall, after the present year, be held annually, to be convened on the first Monday in November, at such place as may be designated by the National Council, or in case of emergency, by the Principal Chief.

SEC. 5. No person shall be eligible to a seat in the National Council but a male citizen of the Cherokee Nation, who shall have attained to the age of twenty-five years, and who shall have been a *bona fide* resident of the district in which he may be elected, at least six months immediately preceding such election. All native born Cherokees, all Indians, and whites legally members of the Nation by adoption, and all freedmen who have been liberated by voluntary act of their former owners or by law, as well as free colored persons who were in the country at the commencement of the rebellion, and are now residents therein, or who may return within six months from the 19th day of July, 1866, and their descendants, who reside within the limits of the Cherokee Nation, shall be taken, and deemed to be, citizens of the Cherokee Nation.

SEC. 6. The members of the National Council shall each receive from the public treasury a compensation for their services, which shall be three dollars per day, during their attendance at the National Council upon any regular session, not exceeding thirty days; *provided*, that the *per diem* allowance may be increased or dimin-

ished by law; but no alteration shall take effect during the period of service of the members of the National Council, by whom such alteration may have been made.

SEC. 7. All male citizens, who have attained the age of eighteen years, shall be deemed qualified electors of the Cherokee Nation, and there shall be no restrictions by law, save such as are required for persons convicted of crime, or for such limit as to residence, not exceeding six months in the district where the vote is offered, as may be required by census or registration.

#### AMENDMENTS TO ARTICLE V.

SEC. 1. The Supreme Court shall consist of three judges, who shall be elected by the National Council, and whose duties, jurisdiction and compensation, shall be defined by law, in the manner prescribed by the constitution. The National Council, at its annual session in 1867, shall elect one of the Supreme Judges for three years, one for two years, and one for one year, and at each annual session of the National Council thereafter, shall elect one Supreme Judge, whose official term shall be three years.

SEC. 2. The judges of the Circuit Court shall hereafter be elected by the people, for the term of four years, and shall have the same jurisdiction, discharge the same duties, and be compensated in the same manner, as is now provided for by the constitution. There shall be elected, in like manner, in and for each district, as many judges as it may be deemed expedient

for the public good, whose powers, duties, and duration in office, shall be clearly designated by law.

## AMENDMENTS TO ARTICLE VII.

SEC. 1. Neither slavery, nor involuntary servitude, shall ever hereafter exist in the Cherokee Nation, otherwise than in the punishment of crime, whereof the party shall have been duly convicted; and any provision of the Constitution of the Cherokee Nation conflicting with the foregoing section, is hereby annulled.

SEC. 2. The persons now holding office shall continue therein, except as may be otherwise expressly provided by law for Canadian district, until their successors be commissioned in November, 1867.

Tahlequah, Cherokee Nation, Nov. 26, 1866.

SMITH CHRISTIE,  
President of National Committee.

Concurred:

WRITER,  
Speaker of Council.

Approved:

WILL P. ROSS.

—o—

At a general convention of the people of the Cherokee Nation, held at Tahlequah, Cherokee Nation, on the 28th day of November, A. D. 1866, for the purpose of taking into consideration the foregoing *amendments* to the Constitution of the Cherokee Nation; and, whereof,

Riley Keys, Chief Justice of the Supreme Court, was chosen President, and Budd Gritts, Secretary: the said amendments to the Constitution of the Cherokee Nation were read, considered, and severally approved and adopted by the Cherokee people.

In testimony whereof, the President and Secretary of said Convention, have subscribed the same at Tahlequali, Cherokee Nation, on this the 28th day of November, A. D. 1866.

RILEY KEYS,  
President of the Convention.

BUDD GRITTS,  
Secretary.

AND, WHEREAS, The said foregoing amendments to the constitution, were duly submitted to the said general convention of the Cherokee people, and were severally read, considered, and adopted on the 28th day of November, A. D. 1866.

Now, therefore, Be it known, that I, William P. Ross, Principal Chief of the Cherokee Nation, do issue this, my proclamation, declaring said amendments to be a part of the Constitution of the Cherokee Nation.

In testimony whereof, I have hereunto subscribed my name, this the 7th day of December, A. D. 1866.

WILL. P. ROSS,  
Principal Chief.

# COMPILED LAWS

OF THE

# CHEROKEE NATION.

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## CHAPTER I.

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### AN ACT RELATING TO THE DUTIES OF OFFICERS.

ART. I.	Duties of Principal Chief.	ART. V.	Duties of District Clerks.
II.	" Treasurer.	VI.	" Solicitors.
III.	" Aud. of Acc'ts.	VII.	" Ex. Council.
IV.	" Sheriffs.		

## ARTICLE I.

### DUTIES OF PRINCIPAL CHIEF.

SEC. 1. Immediately after the meeting of the first annual session of the National Council after a general election, and the organization of the two branches thereof, the President of the Senate shall, (after having received the election returns,) cause notice thereof to be given to the Council that he will proceed to open and count the same at a certain hour, and requesting the presence of that body, at that time, for that purpose; and at the time designated, he shall proceed, with the

assistance of the Chief Clerk of the Senate, and the Speaker and Chief Clerk of the Council, beginning with the returns for the chieftaincy, if any, to open and examine the returns from each district, one at a time, in the presence of the two houses, and carefully compute and publish the result, and have a faithful record thereof made upon the journal of the Senate.

SEC. 2. Whenever an election for Principal and Assistant Principal Chiefs shall have been held, and the result ascertained as by law provided, it shall be the duty of the President of the Senate to appoint a special committee of three members of the Senate to wait upon and notify the Principal and Assistant Principal Chiefs elect of the same. He shall also notify, in like manner, the speaker of the Council; for the information of the members thereof; and as soon as may be thereafter, the two branches of the National Council shall meet in joint session, for the purpose of inducting into office the said Principal and Assistant Principal Chiefs elect.

SEC. 3. The constitutional oath (or affirmation) of office, shall, in the presence of the members of both branches of the National Council assembled, be administered, first to the Principal and then to the Assistant Principal Chief elect, by the Chief Justice, or one of the Associate Justices of the Supreme Court, or by any other judge or officer duly authorized to administer oaths; a record of which shall be made and retained in the proceedings of the Senate; and such Principal and Assistant Principal Chiefs, shall thereupon be qualified to enter upon the discharge of their duties; *provided*,

however, that the Principal Chief and Assistant Principal Chief elect, or either of them, as the case may be, may be installed and qualified by any officer authorized to administer oaths, by taking the constitutional oath at any place or in any manner most convenient or satisfactory, according to the circumstances of the case, or the emergency of the occasion.

SEC. 4. The Principal Chief shall have control of the national seal, and in all cases, when necessary, may direct the proper application, use, and preservation of the same.

SEC. 5. The Principal Chief may, in his discretion, appoint in his office, a Secretary, and when necessary, one or more Assistant Secretaries, who shall receive the compensation provided by law.

SEC. 6. The Principal Chief may require information in writing, or otherwise, from the various commissioned officers of the Nation, on any subject pertaining to their duties, and, from time to time, give such and other information to the National Council, concerning the condition and interests of the Nation, and recommend to their consideration such measures as he may deem expedient, so as to enable them to fully understand the condition of public affairs, the conduct of public officers, in the discharge of their duties, the condition and wants of the several national institutions, with the condition of the people, and the industrial, educational and religious interests, and prosperity of the Nation generally.

SEC. 7. If the National Council shall impeach and convict any officer suspended by the Principal Chief, the incumbent, holding by virtue of appointment by the Principal Chief, shall hold and continue (unless removed) in the discharge of the duties of the office, for the unexpired term of the person removed, or until a successor is elected and duly qualified. But if such officer, so suspended, shall be for any cause reinstated by the Principal Chief, or by the National Council, the Principal Chief shall endorse upon the back of the commission of the officer so suspended and re-instated, the date of both the suspension and re-instatement, and make official record of the same; and said officer shall not draw pay for the "*interim*," while not in actual service, neither shall the temporary incumbent draw pay, except for the time of actual service.

SEC. 8. The Principal Chief shall encourage friendly relations between the Cherokees and other nations and tribes of Indians, and the adoption of such measures as he may deem necessary for their mutual safety and prosperity. He shall also encourage amicable intercourse between the Cherokees and people of the United States, and may, in his wisdom, confer with the officers of the Federal and State governments, upon all matters of mutual public interest.

SEC. 9. The Principal Chief may, whenever he deems it expedient, appoint one or more persons to act as Commissioners, for the purpose of meeting and conferring with, a like commission of any other nation or tribe of Indians, upon matters of mutual interest.

SEC. 10. The Principal Chief may, at any time, in person or otherwise, inspect the books, vouchers, and other official papers in or belonging to the offices of the Treasurer of the Nation, and Auditor of accounts; and whenever a vacancy shall occur in the office of Treasurer of the Cherokee Nation, the Principal Chief shall appoint and commission a suitable person to perform the duties of said office until such vacancy shall be regularly supplied by the National Council; and the Treasurer so appointed by the Principal Chief, shall, before he enters upon the duties of the office, enter into such reasonable bond as may be required by the Principal Chief, and qualify in the same manner as required by law, of the Treasurer, in whose stead he shall be appointed.

SEC. 11. In case of the death of the Treasurer, the Principal Chief shall, as soon as may be, in the presence of the Assistant Treasurer, if any, and one or more of the sureties of the deceased Treasurer, or any one or more officers of the Nation, or other trustworthy citizen or citizens thereof, proceed and take possession of the office, books, papers, moneys, and other property belonging to said office. He shall take, or cause to be taken, in the presence of one or more of the persons aforesaid, a full and correct schedule of the moneys, books, papers, furniture, and other effects or property belonging to said office, and thereupon close, lock and seal, or otherwise safely secure the said books, moneys, and other property of said office, until the vacancy can be filled as provided by law.

SEC. 12. It shall be the duty of the Principal Chief to communicate to the National Council, at the commencement, or as soon thereafter as may be, of each annual session thereof, the annual reports of all officers, required by law to report to him.

SEC. 13. The Principal Chief shall, at least forty days before any general election, and not less than ten days before a special election to fill a vacancy, promulgate the same by proclamation or writ of election, addressed to the Clerks of the several districts, or to any one or more of them, as the case may be. He shall state distinctly the day on which the election will occur, the offices to be filled, and the length of the term of service.

SEC. 14. The Principal Chief shall, from time to time, adopt such means as he may deem necessary to secure uniformity in the conducting of elections; for which purpose he may furnish, or cause to be furnished, blank rolls, envelopes, and other necessary stationery, to the District Clerks of the several districts for distribution to the Superintendents and Clerks of the various precincts, and no others shall be used unless unavoidable.

SEC. 15. The Principal Chief shall have authority, upon the perpetration or attempt to perpetrate any act against the peace and dignity of this Nation, by two or more persons conspiring or combining for such purpose in any district, and he shall have good cause to believe that the Sheriff of such district is unable to maintain the supremacy of the law, or to suppress or resist such

combination, to call upon any of the other Sheriffs of the Nation, to aid with such civil force as may be thought necessary under the circumstances.

SEC. 16. The Principal Chief shall have authority to grant, (by and with the advice and consent of the Executive Council,) pardons to persons convicted of the crime of murder, manslaughter, or other high crimes; or he may commute the punishment of persons convicted of murder, manslaughter, or other high crimes, to imprisonment for life, or for any term of years, upon such conditions and restrictions as he may think proper.

SEC. 17. All applications made to the Principal Chief for the pardon or commutation of sentence of any person convicted of murder, manslaughter, or other high crimes, shall be accompanied with a recommendation of credible persons, that the convict is a proper subject for Executive clemency; and shall also be accompanied by the evidence in the case, or a certified copy thereof, if accessible, and a full statement of the facts in the case and the grounds of application. The Principal Chief shall, if the reasons set forth seem to warrant, grant, if necessary, an additional respite for a given period, until he can assemble the Executive Council, who shall, with him, carefully consider the evidence, the circumstances, and facts in the case, and decide and order accordingly.

SEC. 18. The Principal Chief shall, in conformity with law, receive such election returns as shall be made through his office to the National Council. The returns for Principal and Assistant Principal Chiefs and mem-

bers of the National Council, he shall receive, carefully preserve, and transmit to the National Council unopened as soon as may be after the organization of the Senate. The returns for members of the General Council of the Indian Territory, and for all other officers requiring commissions, he shall open, and no lawful objections appearing, proceed to commission such persons as shall appear to have been duly elected. The term of all offices, the incumbents of which are commissioned by the Principal Chief, shall begin on the third Monday in November, and expire as provided by the constitution, or by law, and the officers shall be commissioned accordingly.

SEC. 19. Whenever in his opinion the public good requires it, the Principal Chief may offer, and pay from the treasury of the Nation, a suitable reward, not exceeding five hundred dollars in any one case, to any person who shall in consequence of such offer, apprehend, secure and safely deliver to the proper authority, any person who shall be guilty or accused of any capital or other high crime, when the person accused cannot be arrested and secured in the common course of proceeding, or when such person escapes beyond the jurisdiction of the Cherokee Nation. He may also pay such reasonable sum as his judgment may approve, not exceeding three hundred dollars, to any person who shall arrest, in advance of the offering a reward by the Chief or issuance of legal process of arrest, and safely deliver to the proper authority any person who shall be charged with the commission of murder, or other high crime, after the conviction of such person.

SEC. 20. Whenever it shall appear to the satisfaction of the Principal Chief, that any person charged with a capital or other criminal offense, has fled beyond the jurisdiction of the Cherokee Nation, and taken refuge in any other country, he shall make requisition upon the executive authority of such country, for the arrest and rendition to the lawful authorities of the Cherokee Nation, of the person so accused.

SEC. 21. The Principal Chief shall, when requisition is made upon him by the executive of any other nation or government, for the arrest and rendition of any person charged with a criminal offense, such person being amenable to the laws of such nation or government, and who shall have taken refuge in the Cherokee Nation, if satisfied that such demand is conformable to law, and ought to be complied with, issue his proclamation, requiring the proper officers of this Nation to proceed at once to make the arrest and delivery to the authority making the demand.

SEC. 22. The Principal Chief shall cause to be transmitted to the executive of each, or of any, or more of the States of the United States, and to the library of Congress, copies of the laws of the Cherokee Nation, and such other public documents as he may deem proper, and shall receive such books and publications as may be transmitted in return, and cause the same to be deposited in the national library.

SEC. 23. Should a vacancy occur, from any cause, in the office of District Clerk, or in any other office of the Judicial or Executive Departments created by law,

and not provided for by the Constitution, the Principal Chief may temporarily fill such vacancy by appointment until the vacant office shall be permanently filled for the remainder of the unexpired term, as provided by law.

SEC. 24. The Principal Chief shall require all bonds to be approved by him, to be verified by the oath—or affirmation—of the sureties, that they are worth, free from incumbrance, the penalty of such bond: *provided*, that such bond shall be adjudged sufficient, if the aggregate amount for which each surety justifies, covers the full penalty of the bond.

SEC. 25. The Principal Chief, when he deems that the public interests demand it, may convene the National Council in extra or special session; and the National Council, so convened, shall legislate upon such subjects only as may be recommended or sanctioned by the Principal Chief.

SEC. 26. In case of disagreement between the Senate and the Council as to the time of adjourning, the Principal Chief shall fix the time, and adjourn such session as the law directs. He may, if satisfied that the public interest demand it, adjourn a special session at any time; *provided, however*, that he shall have no authority to adjourn a session for the purpose of defeating or delaying investigation by the National Council of any of his official acts.

SEC. 27. The Principal Chief shall draw warrants upon the treasury of the Cherokee Nation for all money payable out of the treasury, in pursuance of law. War-

rants for the services of members of the National Council, shall be ready for delivery upon the adjournment of each annual session of Council, or as soon as may be thereafter; and the Principal Chief shall instruct the Treasurer to be in attendance and ready to pay the same, immediately after the adjournment, if there are appropriate funds in the treasury for that purpose.

SEC. 28. The National Council, or either branch thereof, may inquire of the Principal Chief, in writing, concerning all proper public subjects of inquiry; and the Principal Chief shall within six days after receiving the request, if by him deemed proper and expedient, furnish the desired information, or state his reasons for declining.

SEC. 29. The Principal Chief shall, as occasion demands, call upon the authorities of the United States for the prompt removal of all persons not lawfully residing or sojourning in the Cherokee Nation; and he is authorized to order any Sheriff of this Nation, with such force as may be necessary for that purpose, to co-operate with any authority of the United States, for the removal of any person or persons not having the rights of Cherokee citizenship.

## ARTICLE II.

### DUTIES OF TREASURER.

SEC. 30. No person shall be eligible to the office of Treasurer of the Cherokee Nation, except a native born

male citizen thereof, who shall have attained the age of twenty-five years.

SEC. 31. The Treasurer shall hold his office for the term of four years, or until his successor is qualified and enters upon the duties of the same. He shall, during the sessions of the National Council, keep his office and make disbursements at the seat of government.

SEC. 32. The Treasurer shall, within twenty days after receiving official notice of his election, and before entering upon the duties of his office, take and subscribe the required oath, (or affirmation) and enter into bond in such sum and with such sureties as the National Council shall approve, and who shall be citizen property holders of this Nation, conditioned for the faithful discharge of the duties of his office, and for the faithful performance by all persons employed by him in his office, and that he will deliver over to his successor in office, or to any other person authorized by law to receive the same, all moneys, books, records, papers and other articles and effects, belonging to said office, which bond shall be executed to the Cherokee Nation, approved by the Principal Chief, and submitted by him (the Principal Chief,) as soon as may be, to the Senate, for the information and approval of the National Council. The bond, with the following oath (or affirmation) of office, duly subscribed by the Treasurer and certified by the officer administering the same, attached, shall be put on file for safe keeping, in the Executive Office, and shall be deemed to extend to the faithful execution

of all the duties of the office of Treasurer until his successor shall be elected, qualified, and enters upon the duties thereof.

### OATH.

I——do solemnly swear (or affirm,) that I will faithfully and to the best of my ability, perform the duties of Treasurer of the Cherokee Nation,—that I will carefully preserve all books, records, papers, moneys and other property coming into my custody by virtue of the office,—that I will disburse the public moneys in conformity with the express provisions of law, and without fear, favor, or partiality to any one,—that I will not lend, with or without interest, or otherwise use any of the public moneys, or other property, for any use whatever, not authorized by law,—that I will be accountable to the Cherokee Nation for the acts of all subordinates appointed by me and serving in my office under me,—that I will make true and correct reports of the condition of the treasury, whenever by law required so to do,—and that I will turn over, or account for, to my successor in office, or any person lawfully authorized to receive the same, all moneys, securities, records, papers, furniture and other property of the Cherokee Nation, that may be, or may have come into my possession as Treasurer. So help me God.

SEC. 33. Whenever the funds in the treasury shall exceed three-fourths the amount of the Treasurer's bond, or whenever the Principal Chief shall deem such bond insufficient, by reason of the insolvency, death or removal from the Nation of any of the sureties, or from any other cause, he shall require the Treasurer to give an additional bond, within such time, in such reasonable amount, and with such surety as he shall direct and approve. No surety shall be permitted to withdraw from the bond of the Treasurer, during the term for which the bond was executed, without the consent of the Principal Chief and a majority of the other sureties.

In case of the death of any surety, the estate of such surety shall continue to be liable for any default or deficit in the Treasurer's office, that may occur during the life of the surety.

SEC. 34. It shall be the duty of the Treasurer to keep, in books provided for that purpose, fair, full and separate accounts of all moneys received and disbursed by him; from what source derived, and on what account paid. He shall record all appropriation acts under which he makes payments, and correct copies of all official reports made by him, and keep such records as will exhibit the state of the funds on all accounts, and the condition of the treasury in regard to the debts and credits to which it is subject. He shall pay no moneys out of the treasury except in pursuance of a law authorizing the same, and upon warrants drawn by the Principal Chief. He shall pay on demand, all warrants in the order in which they become due, whenever there are appropriate funds in the treasury to pay the same, giving preference to no one.

SEC. 35. The books, papers and transactions of the Treasurer's office, shall at all times be open to the inspection of the Executive, Legislative and Judicial officers of the Nation.

SEC. 36. The Treasurer shall have full supervision of the revenue of the Nation, from whatever sources derivable. He may adopt such measures as he may deem necessary to increase the income and to insure the collection thereof, that may be derived therefrom, as provided by law; and for which purpose he may adver-

tise and sell, after ten days notice shall have been given by publishing the same in the Cherokee ADVOCATE newspaper, any and all property, or so much thereof as may be necessary, belonging to, and being a part of any business, a saw mill, coal mine, or other business or employment, on which a tax is levied under or by authority of law, and is due and not paid; and all such measures, rules, and regulations, deemed necessary and that are adopted by the Treasurer for the collection of taxes imposed by the laws of the Cherokee Nation, shall, after they have been published in the Cherokee ADVOCATE newspaper ninety days, have the force and effect of law, and be a part of the statutes of the Cherokee Nation. (Dec. 7th, 1877.)

SEC. 37. He shall make to the Principal Chief, for the information of the National Council, within twenty days after the end of each fiscal year, a full and detailed statement of all moneys received into and paid out of the treasury, during the preceding fiscal year; showing under separate heads, from what sources received, and for what particular object or service paid out; and also the precise state of the treasury, together with such information and suggestions of a fiscal nature, as he may deem useful and proper; which report shall be published with the laws of the session at which the same shall have been made.

SEC. 38. He shall perform such other duties as may be imposed upon him by law.

SEC. 39. The Treasurer shall have power, in his discretion, to appoint in his office, and under his hand

and seal, and with the approval of the Principal Chief, an assistant, who shall be designated Assistant Treasurer, and who shall continue in office during the term of the Treasurer appointing him, unless sooner removed by him.

SEC. 40. The Assistant Treasurer shall take the same oath prescribed for the Treasurer; which shall be filed with the bond and oath of the Treasurer, in the office of the Principal Chief. He shall discharge such duties as the Treasurer may impose upon him; and for the faithful performance of whose official duties, the Treasurer and the sureties in his official bond, shall be responsible.

SEC. 41. The Assistant Treasurer shall receive a salary to be fixed and paid by the Treasurer out of his salary, and his proportion of ten per cent. upon special revenues collected.

SEC. 42. The "FISCAL YEAR" of the Cherokee Nation, shall begin on the first day of October, and close on the thirtieth day of September of each year; and all books and accounts of the Treasurer, shall be kept, and duties of his office performed, with regard to the beginning and ending of the fiscal year.

SEC. 43. All officers required to render annual, semi-annual and quarterly accounts to the Treasurer, shall do so in conformity with the express provisions of law, and with reference to the beginning and ending of the fiscal year; and it is hereby made the imperative duty of the Treasurer to promptly report any officers failing so to do.

SEC. 44. No one shall act as Assistant Treasurer unless eligible to the office of Treasurer of the Cherokee Nation.

SEC. 45. The official bond of the Treasurer may be prosecuted upon a breach thereof, from time to time, until the whole penalty is collected.

SEC. 46. A joint special committee consisting of two senators and three members of the council, shall be appointed within five days after the organization of each annual session of the National Council, by the presiding officer of each branch, for the purpose of making a settlement with the Treasurer. They shall have free access to the books, papers and effects of the office,—count the funds on hand, compare accounts, and report accordingly. The Treasurer shall furnish said committee with the necessary information appertaining to the office.

SEC. 47. The settlement thus made being satisfactory to the National Council, the committee shall, in the presence of the Treasurer, proceed and destroy, by burning, all cancelled warrants on file in the office. The Treasurer shall, from year to year, retain in his office, all warrants or vouchers of whatever character paid by him, for the information of said joint committee.

SEC. 48. He shall not, during his term of office, accept of, or be elected, or appointed, to any other office or position of trust or profit, whereby he may be prevented from exercising a uniform and uninterrupted supervision of his office.

## ARTICLE III.

## DUTIES OF AUDITOR.

SEC. 49. That there be and is hereby created the office of Auditor of Accounts. The Auditor shall be elected by the National Council, and his term of office shall expire with that of the members of the National Council electing him.

SEC. 50. The Auditor of accounts shall be required to enter into bond, to be given to, and be filed in the office of the Principal Chief, in the sum of three thousand dollars, with at least three sureties, according to law, and shall be required to take the following oath, to-wit:

I,—as Auditor, do solemnly swear (or affirm), that I will make and keep a correct registry of all certificates of national indebtedness, authorized by law to be registered; that I will faithfully and impartially register the same to the persons owning or presenting them, as required of me by law to do, and that I will, to the best of my skill and ability, perform all the duties required of me by law. So help me God.

SEC. 51. The Auditor of accounts shall keep his office at the seat of government; he shall receive and register all certificates for services rendered the Nation, and authorized by law, that may be presented to him by the holders or owners thereof. His registry shall show the case, nature thereof, how disposed of, amount or number of days, to whom, by whom, and for what service issued, and the date of each certificate, with the number thereof.

SEC. 52. All persons holding certificates issued be-

tween the 1st day of October, and 31st day of March, shall be required to present them to the Auditor for registry, from the 1st day of April to the 20th day thereof, and all certificates issued between the 1st day of April and 30th day of September, shall be presented in like manner, from the 1st day of October to the 20th day thereof.

SEC. 53. The Auditor shall carefully compare each certificate with the report of the clerk issuing the same, and if found to correspond with the report, in all the particulars required by law, he shall register it, and write the word "registered" across the face thereof, and if found not to so correspond, he shall write upon the back "rejected," with his official signature. All the certificates presented by each person, and registered or rejected, shall be done up in a package, with the name of the person presenting them, the amount thereof, and a number corresponding to the number of the claim upon the registry of the Auditor, endorsed upon the back thereof, and be filed in his office. After the 20th day of April and October, and within ten days, it shall be the duty of the national Treasurer to inspect the books and accounts of the Auditor; he shall carefully examine the same, compare each certificate registered or rejected with the registry of the Auditor, and the report of the clerk. All certificates not corresponding with the report of the clerk, and rejected by the Auditor, shall be returned to the owner, and the clerk who issued such certificates shall be responsible to such owner for the amount of the certificates so rejected, and upon the

failure or refusal of any clerk to pay the amount of certificates so rejected, the holder of such certificate may institute a suit against such clerk or his sureties, and recover double the amount of the ticket so rejected. And any clerk issuing certificates for services not authorized by law to be paid, shall be responsible, as provided above, to the holders of such certificates.

. SEC. 54. During each session of the National Council, there shall be appointed by the President of the Senate and Speaker of the Council, a committee, to consist of two members of each house, who shall be required to carefully examine the books and accounts of the Auditor, and shall, with the approval of the National Council, destroy all the certificates registered by him, for the year ending the 30th of September previous.

#### ARTICLE IV.

##### DUTIES OF SHERIFFS.

SEC. 55. There shall be one sheriff in each district, who shall enter into bond with surety approved by the Principal Chief, payable to the people of this Nation; to the amount of one thousand dollars, which bond shall be filed in the executive office, by the sheriff, before he enters upon his duties; the condition of which shall be in the following form, to-wit:

Whereas, the above bounden, —, has been elected sheriff of —district for the term now ensuing:—Now the condition of the above obligation is such, that if the said —, shall well and faithfully in all things perform and execute the duties of his said office, during his con-

tinuance therein, by virtue of said election, without fraud, deceit or oppression, and shall pay over all moneys, and give possession of all property, that may have come into his hands, as such sheriff, as directed by law and process of court, and shall impartially and promptly execute all lawful writs to him directed, or use his best endeavors to execute the same, and shall deliver to his successor in office all papers, articles and things pertaining and belonging to his office, then the above obligation shall be void; otherwise to be and remain in full force.

SEC. 56. The following oath shall be taken by the sheriff, and the fact certified to upon his bond:

I, A—B—having been elected to the office of sheriff of—district, do solemnly swear, that I will well and truly execute the duties of my said office as defined and required of me by law and my bond to execute, according to the best of my skill and understanding, without fear or partiality. So help me God.

SEC. 57. It shall be the duty of each sheriff to attend upon the courts which may be held in his respective district, to serve all summons and other processes which may be placed in his hands, according to the tenor of the mandates therein contained, and to take all necessary and lawful measures in the execution of the judgment of the courts committed to him to execute, and also to arrest and cause to be tried, all persons who may be charged with criminal offenses; for which last purpose, and also to summon witnesses to attend the criminal courts of this Nation, the sheriffs are authorized to go out of the limits of their respective districts.

SEC. 58. When an arrest shall be made of a person charged with felony, it shall be the duty of the sheriff

to notify the judge having jurisdiction of the case, of such arrest, without delay, and, after ascertaining the time fixed for trial, to proceed to the office of the district clerk, there to obtain a list of jurors to be summoned, as provided by law. The prisoner shall be securely guarded until convicted or acquitted, and for this purpose, the sheriff shall, in all cases of manslaughter and those involving the death penalty, select and appoint as special guards of each person so charged, three citizens of good character, who shall be sworn, faithfully to do duty as guard until discharged, and the sheriff shall be authorized to administer such oath. In all criminal cases prosecuted by indictment only, except those above mentioned, the sheriff shall appoint and qualify two guards for each prisoner. And every person accused of felony shall, while under authorized arrest and guarded, be chained, except while present in court ; and the sheriff may adopt and practice such other means, not enjoined in this section, and not cruel or inhuman, as he may find necessary for the safe keeping of any prisoner, at some regular place, until acquitted: *Provided*, that any accused person shall be allowed, within the limits fixed by the constitution, to give bail for his appearance at court, at the time set for his trial, by giving bond to the sheriff and security, to his satisfaction, and to the amount to be fixed by the judge presiding in that case. Bondsmen and securities to be qualified in double the amount of the bond.

SEC. 59. In case of resistance, or strong apprehension of resistance, the sheriff may summon such a

number of citizens as he shall deem necessary to assist and effect the arrest; and should any prisoner resist or attempt to escape from the execution of a lawful writ of arrest, in a case of felony, and be necessarily killed while in the act of such resistance or attempt to escape, and in order to prevent such escape, such killing shall be deemed and held to be justifiable.

SEC. 60. No sheriff shall issue any national scrip or certificates, but each sheriff shall keep in his office a book containing a list, or register, of all persons appointed or summoned by him to do National service, pursuant to law specially authorizing him to require such service. Such register shall contain the nature of the service performed, the date of appointment or summons, the number of days served and between what dates, and case or occasion requiring the service. Each special service, required above to be registered by the sheriff, shall be registered as soon as the same is performed and accepted, and the servitor discharged by the sheriff from that special service, and each entry shall contain the date thereof. The expenses of each case or occasion, shall as soon as practicable after the services therein have been performed, and without unnecessary delay, be reported in full to the clerk, in such form as shall enable him promptly to issue certificates therefor, as required by law; and at the close of each fiscal quarter, or with in ten days thereafter, the sheriff shall transmit to the auditor of accounts, full and certified copies from his register, showing the expense of his office during that quarter; which reports of the sheriff shall be

compared by the auditor with the reports of the clerk for the same period, and he shall note any material discrepancies or differences between them, or deficiencies in either, in his annual report.

SEC. 61. Each sheriff may appoint a deputy from under his own hand, and shall notify the district judge of such appointment. Such deputy shall, before entering upon the discharge of his duties as such, take an oath to faithfully discharge the same according to law, and the district judge shall record such appointment with the date thereof, and of the administration of the said oath. The deputy sheriffs shall be authorized to exercise the powers and perform the duties of sheriff, and shall be subject to displacement at the will of the sheriffs respectively, who may have appointed them. Each sheriff shall be responsible for the pay, conduct, and behavior in office, of the deputy appointed by him.

SEC. 62. No officer empowered to serve process, except warrant for the arrest of persons charged with the commission of crime, shall serve the same, between the hours of twelve and twelve, commencing and ending the Sabbath day; and any such service shall be void, and the officer so offending shall be liable to the penalties imposed by law for neglect of serving lawful process.

SEC. 63. It shall not be lawful for any sheriff to board any prisoner at any public boarding-house in the town of Tahlequah, during the sessions of the National Council.

SEC. 64. "The Sheriffs of the various districts of this Nation are hereby instructed to notify all non-citizens, cutting hay on the public domain of this Nation, to desist from so doing; and should such non-citizen continue to cut and put up hay contrary to the orders of the sheriff, as hereby instructed, it shall be the duty of the sheriff to levy upon all hay cut, and machinery used therein, and report the parties so offending to the United States Agent."—(December 1st, 1876.)

SEC. 65. It is also hereby made the duty of said sheriffs, whenever they may find such non-citizen mining in coal, or cutting timber from the public domain, to seize, for the benefit of the Nation, all coal so mined and all timber so cut; and report such non-citizen, so offending, to the United States Indian Agent to be dealt with and punished according to treaty stipulations and the Intercourse Laws. And all hay, coal and timber recovered under the provisions of this act shall be deemed as forfeited to the Nation, and shall be sold by said sheriffs at public sale, and the proceeds thereof turned over by said sheriffs to the National Treasurer. The sheriffs shall be allowed fifteen per cent of all such sales.—(December 1st, 1876.)

SEC. 66. All process which may be issued by any judicial tribunal of any other Indian Nation within this territory, summoning a citizen of this Nation to appear before such tribunal to testify, and which shall come to the hands of any sheriff of this Nation in time for service, shall be by him promptly served and returned, or forwarded to the proper officer for that purpose.

## ARTICLE V.

## DUTIES OF DISTRICT CLERKS.

SEC. 67. There shall be one clerk for each of the several districts of this Nation, who shall be a resident of the district for which he may be elected, and who shall be elected by the qualified voters thereof, and commissioned as provided by law.

SEC. 68. Each clerk so elected shall act as clerk of both the Circuit and District Court of his district, at the regular and special terms thereof, and also act as clerk in all criminal cases triable by a supreme or special judge within his district.

SEC. 69. Each clerk elected as provided in section 68, shall, on or before the 3d Monday of November following, file a bond in double the amount of his salary, conditioned upon the faithful performance of the duties of his office, which bond, or any part thereof, shall be recoverable in a civil suit for damages, sustained by any citizen, by reason of the malpractice, wilful neglect, omission or refusal to do duty, on part of any clerk filing such bond.

SEC. 70. The district clerk shall also, before he shall enter upon the duties of his office, take the following oath :

I do solemnly swear (or affirm) that I will carefully file and preserve all books, papers and documents that may come to my possession, or be placed in my charge, by virtue of my office, and the same with the furniture and things belonging to the office, safely transmit unimpaired to my successor in office, upon notice

from him of his readiness to receive them, that I will true record make of all matters and things required of me by law or the court to record, and that I will faithfully and truly execute all other duties which may devolve upon me to perform by virtue of my office, without favor, affection or partiality, and to the best of my ability. So help me God.

Which oath shall be certified to as having been taken, on the back of his bond.

SEC. 71. Each Clerk shall keep a set of books, one of which shall be separately devoted to each of the following matters of record, to-wit:

1st. The registration of all regular appointments made within his district in conformity to law, including those of administrators, guardians, appraisers of property, superintendents, judges, and clerks of election, etc., etc., showing what person appointed, time of appointment, and for what special purpose.

2d. Copies in full of all schedules of property required by law to be made and returned to the district judge, with the lawful appraisements of the articles respectively, and special reports of appraisers, if any, in connection with such schedules.

3d. Synopsis of all bonds filed in the office of the district judge, showing for what purpose or upon what condition given, names of principals and sureties to each, date and amount, and to whom given, and also the names, with date, of any additional sureties required to be given to any bond already filed.

4th. Wills purporting to be of deceased persons, verbal or written, as proven, or attempted to be proven,

to the satisfaction of the district judge, with certificate attached to the record that the will has been so proven, or not, as case may be.

5th. Reports of administrators and other appointees, of the description of property placed in their trust, including settlements with heirs, wards, creditors or other appointees.

6th. Criminal cases tried by the district court, with all proceedings had in open court, except testimony of witnesses.

7th. Criminal cases tried by a circuit or supreme judge; with record of all proceedings in each case, including that of testimony given in such case.

8th. Civil cases tried by the district court, with proceedings of court in each case in full, from institution to disposition of case, except testimony of witnesses.

9th. Civil cases tried by the circuit court, with proceedings in cases liable to be appealed, the oral testimony in each case in full, and including testimony of witnesses originally given, and copies of all documentary testimony.

10th. Stray property as reported and sold by the Sheriff, copied in full from his returns of same, as required by law.

11th. Marks and brands of stock, as provided to be recorded by law.

12th. Improvements, showing location of each, and

by whom claimed or owned, as provided to be recorded by law.

SEC. 72. The originals of all matters of record, having reference to the action of the district judge, had between the regular terms of the district court, or to any returns, applications, and reports made to him during the same time,—shall, as speedily as possible, and in no case with longer delay than one month,—be transmitted by the district judge to the district clerk, to be filed in his office, and recorded as required.

SEC. 73. All matters, required by law to be recorded by the district clerk, shall be placed by him on record in the appropriate book, without unnecessary delay; and he shall attach an index to each book, at the time of record, of each matter recorded, to assist reference and examination.

SEC. 74. The records of the office of the district clerk, or any part thereof, shall, when so desired by any citizen as to any particular matter recorded, be submitted to his inspection by the clerk at any time during office hours, with the assistance and only in the presence of the clerk.

SEC. 75. All lawful official documents, or process issued by any district clerk, shall bear the seal of the district.

SEC. 76. Each clerk shall issue, on blanks furnished him for that purpose by the national treasurer, certificates of all services done the Nation, within his district by jurymen, guards, witnesses, interpreters, and

other persons not otherwise ordered to be paid, of whom special service to the Nation may be required by law, and who the law provides shall receive per diem compensation. Each certificate, issued by him, shall be numbered in the order in which it is issued, from the commencement to the end of each fiscal year, beginning with number one; and shall also designate the time served, kind of service, when the service was done, name of person serving, and date of issuance of certificate. For service done in criminal cases, the certificate shall specify, also, the name of the party charged, nature of accusation, and disposition of case. All certificates shall be signed officially by the clerk, and bear the stamp of the district seal.

SEC. 77. The national treasurer shall furnish each clerk, when applied for by him, with "neatly printed" blank forms of "National Scrip," for the issuing of certificates; and no certificate shall be issued by any clerk except upon blanks so furnished. The treasurer shall stamp the blanks so furnished by him, with the seal of his office, and shall take a receipt from each clerk for the number each time to him provided. The treasurer shall also furnish each district clerk with a seal for his office, bearing on the margin the name of the District and Nation, and in the centre the word "Justice."

SEC. 78. Each clerk shall keep a register of all certificates issued as above required, for services proven before him, and a separate register of all certificates issued for services proven before the sheriff, and reported by the sheriff to him, to be certified to and

paid. Each clerk shall also be required to furnish on oath, quarterly reports to the auditor of accounts, within ten days after the expiration of each quarter. The first quarter shall end December 31st, the second March 31st, the third June 30th, and the fourth, or last quarter, September 30th; from which reports, the auditor shall furnish, on oath, the treasurer with quarterly abstracts. Certificates shall be accurately described in registers of the same, as required by law to be issued, for the prevention of fraud, and their certain identification and approval by the auditor.

SEC. 79. For every failure on part of any clerk to furnish the auditor of accounts with registers of certificates and reports, as before required, and within the time required, he shall forfeit to the Nation as a penalty for such failure, twenty-five dollars, which sum the auditor shall deduct from the salary of such clerk in his register of salaries of officers, and shall at once enter upon such register the cause of such deduction; and for every failure on part of the auditor to make such deduction when authorized and required by him to be made, a fine of fifty dollars is hereby imposed upon such auditor for such omission of duty, which shall be deducted and withheld by the treasurer from his salary.

SEC. 80. The Principal Chief is hereby authorized to furnish each clerk, for the use of the circuit and district courts, such dockets as may be necessary in conducting the business thereof, and to purchase by wholesale, all paper, ink, envelopes, blank-books and other stationery, of uniform quality, required for the

use of the National Council, Executive Office, Supreme Court and District Clerks; and the Principal Chief shall report all purchases, made under this provision, to the National Council, at the session following.

SEC. 81. The district clerks contemplated by this act, shall each receive a salary of four hundred dollars per annum, payable out of the general fund, and be allowed to charge and collect a fee of twenty-five cents for all papers of private or personal character executed by them, not exceeding one page legal cap, or two hundred words—fifty cents for all papers exceeding two hundred words, and twenty-five cents for every additional or fraction of two hundred words; *provided, however,* that no additional pay over and above his salary, shall be allowed any clerk for services required by law to be rendered by him.

SEC. 82. Each clerk shall, when necessary, have the right, by written notice to appoint a deputy clerk, which appointment when made, shall be reported without delay to the district judge, and such deputy clerk shall take the oath prescribed to be taken by the clerk, and who shall be only authorized during the period of his appointment, unless sooner removed by the clerk, to discharge the duties of the office specially designated for him to perform in his written appointment, and the deputy clerk shall be compensated for his services—as such—out of the salary of the clerk, according to the contract in such case made between them.

SEC. 83. When in any criminal case the clerk shall be unable to attend a called session of any court within

his district, and no deputy clerk shall appear in his place, the court shall be authorized to appoint and qualify, for the special occasion, a clerk "*pro tempore*," who shall act as such during that session; and the clerk, so appointed, shall be required, upon the adjournment, to supply a statement of the proceedings of the court, during that session, with the proven expenses of the same, duly certified to by him, to the district clerk; and for the accuracy of such report of proceedings and expenses by any clerk "*pro tem*," the district clerk shall be held responsible. And for and in consideration of the services of any clerk "*pro tem*," appointed in pursuance of this section, such clerk shall receive, upon the certificate of the presiding judge, five dollars per day, of actual service, to be deducted from the salary of the district clerk by the auditor of accounts.

## ARTICLE VI.

### DUTIES OF SOLICITORS.

SEC. 84. "There shall be elected by the qualified electors of each district one Solicitor or Prosecuting Attorney for each district, who shall be elected at the same time and for the same term of office for which the judges of the district courts are elected. This act to take effect from and after the first Monday in August 1877." (Dec. 2d, 1876.)

SEC. 85. Such Solicitor or Attorney, before he enters upon the duties of his office, shall be commis-

sioned by the Principal Chief, and shall take the following oath or affirmation, to-wit:

You do solemnly swear, that as Solicitor or Prosecuting Attorney, for and in behalf of the Cherokee Nation, you will, to the best of your skill and ability, faithfully conduct all examinations of crimes committed, or persons charged, and prosecute all persons indicted in pursuance of authority given you by law, without fear, favor, partiality or malice, within the district of \_\_\_\_\_, during your continuance in office, and that you will not take or receive any remuneration of any person charged with any criminal offense within said district, or from any one else in behalf of such person, but be faithful to the Cherokee Nation in all prosecutions, and in the performance of all other duties required of a Solicitor to perform by law, to the best of your ability. So help you God.

SEC. 86. It shall be the duty of the National Solicitor, to act for and in behalf of the Nation, in all suits or proceedings within his district, in which the Nation shall be a party, or shall be interested; to indict, in the manner and within the times prescribed by law, all persons within his district against whom there shall be evidence sufficient, in his opinion, to convict of a felony or a misdemeanor, and for such object, to make due and diligent inquiry into all the facts and circumstances of any complaint, crime or misdemeanor made to him, or coming under his notice in any manner; to do his utmost to develop and submit evidence in any case reported by him, or by other means made a subject of investigation by the grand jury, and to prosecute, with intent to discover the true facts of any charge and the just administration of the law, all indictments that may be tried within his district; *provided*, that when any case has been prema-

turely brought, either with or without an apparent fraudulent intention to make such trial an estoppel to further prosecution, or there shall not appear to the Solicitor sufficient evidence in the charge to justify a continuance of the prosecution, he may, upon motion made in open court, and with the approval of the court, before evidence be taken, enter a *nolle prosequi* in such case, and discontinue any further proceedings in the same, and such case shall be as though it had never been brought before the court, but the charge may be renewed, and the offense prosecuted under another indictment.

SEC. 87. The Solicitor of each district is authorized and required to collect and dispense within his district, according to law, all fines arising from a violation of law.

## ARTICLE VII.

### DUTIES OF EXECUTIVE COUNCIL.

SEC. 88. The Executive Council shall consist of three members, who shall be elected in the manner, and whose term of office shall be, as defined by the constitution. They shall perform such duties as are required of them by the constitution, and such as are or may be required of them by law.

## CHAPTER II.

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### AN ACT RELATING TO THE ORGANIZATION OF THE NATIONAL COUNCIL.

#### ARTICLE I.

##### ORGANIZATION OF THE NATIONAL COUNCIL.

SEC. 1. The National Council of the Cherokee Nation shall meet annually at the time and place fixed by law.

SEC. 2. Members elect to the National Council, shall take their seats at the time of meeting of the first annual session thereof, after the general biennial elections at which they shall have been elected, and shall constitute a new council; and such new council shall be organized as hereinafter provided.

SEC. 3. Certificates of election shall be deemed good and sufficient evidence of the election of the persons holding the same, unless in cases of contests, as provided for by law.

SEC. 4. As soon as a majority of the members elect to either branch of the National Council, shall have assembled at the seat of government, such majority shall constitute a quorum competent to transact business, and shall, without delay, proceed to organize the new senate and council; for which purpose, they shall elect one of

their number temporary chairman, and some one as clerk *pro tem*. The chairman shall call the house to order, receive the credentials of the members claiming seats, and read them aloud for the information of all. The clerk shall enroll the names of the members, district by district, and keep a correct minute of the proceedings, which shall afterwards be entered upon the journal of the senate or council, as the case may be. The chairman shall then, and as soon as may be, summon the chief justice, or any other officer authorized to administer oaths, who shall qualify such members elect, but no person, whose seat is contested, shall be qualified while the case is pending. The constitutional oath of office may be administered to the members elect, by districts, or by persons, or otherwise, according to circumstances, each house exercising the right to judge of the elections, the returns, and the qualifications of its own members.

SEC. 5. The members thus qualified, and being a majority, or quorum, of the whole number of members of the senate or council, as the case may be, shall at once, proceed to vote "*viva voce*" for a president of the senate, or speaker of the council, as the case may be, and for one chief clerk, and one assstant or enrolling clerk, and such interpreters as shall be necessary and authorized by law.

SEC. 6. No person shall be chosen president of the senate, or speaker of the council, unless eligible to the office of Principal Chief. Any number of members may compete for the office of president of the senate or

speaker of the council. The voting shall be in the order in which the roll is called by the clerk *pro tem.*, and the candidate receiving the greatest number of votes cast, and a majority of the whole number cast, shall be president of the senate or speaker of the council, as the case may be: *provided*, that, should there be three or more candidates, neither one of whom shall have received a majority of the whole number of votes cast, then, and in that case, the candidates receiving the greatest number of votes, shall be voted for; and the one receiving the greatest number of votes, shall be declared duly elected; *provided, also*, that, the whole number of votes cast, shall be a quorum of the whole number of members.

SEC. 7. There shall then, and in like manner be elected, one chief clerk and one assistant clerk, and two interpreters, to each branch of the National Council so electing such clerks and interpreters; and such clerks and interpreters shall, before entering upon the duties of their offices, take an oath to faithfully discharge the duties thereof, to the best of their ability; whereupon such president of the senate, speaker of the council, and the clerks and interpreters thereof, shall be duly qualified to enter upon the discharge of their official duties; and such senate and council, so organized, shall constitute the National Council, competent and ready for the transaction of business.

SEC. 8. The president of the senate and speaker of the council, shall preside over the deliberations of their respective branches of the National Council, and shall

be subject to such rules as may be adopted for the government of the same. Their term of service, and that of the clerks and interpreters, shall expire at the same time with the expiration of the term of service of those electing them, unless sooner removed.

SEC. 9. The clerks and interpreters of the senate and council may be removed by the body electing them, for any neglect or abuse of their official duties, or for incompetency in office.

SEC. 10. The chief clerks of the senate and council shall keep neat and correct records of the proceedings of their respective houses, and read the journal of business as often as may be required.

SEC. 11. The assistant or enrolling clerks, shall aid the chief clerk in his duties, and perform such general and special services as may be assigned him by the chief clerk, or by the branch of the council of which he is assistant clerk.

SEC. 12. The assistant or enrolling clerk shall be competent to act as chief clerk, and shall so act in the absence of the chief clerk.

SEC. 13. The interpreters of the senate and council shall interpret into English and Cherokee, all acts, resolutions, motions, speeches and other things or subjects necessary to be interpreted, whereby every member may fully understand every subject or matter claiming legislative notice. Each branch of the National Council may dispense with one or all of its interpreters, whenever it may deem it expedient so to

do, and whenever the public interests will not suffer thereby.

SEC. 14. It shall be the imperative duty of the chief clerks of the senate and council, to act as the custodians of the books and papers of the senate and council. They shall each be personally responsible for the safe keeping of every bill, joint resolution, memorial, report, message or other document or paper pertaining to legislation, which shall come to their hands or to the hands of their assistant clerks, from any member, committee, or officer of the National Council, or either branch thereof; and shall keep a record of all such bills and other papers pertaining to legislation; which record shall show the disposition made of the same.

SEC. 15. As soon as the senate and the council shall have effected a permanent organization, they or either branch thereof, shall notify the Principal Chief of the same, and the Principal Chief shall immediately transmit to the president of the senate, such election returns as he may have in his possession, made by law returnable to the National Council; which returns shall be opened, examined and passed upon by the senate and council in joint session, as hereinbefore provided, before the transaction of any other public business: *provided, however,* that election returns for Principal and Assistant Principal Chiefs, shall be examined first; and such chiefs elect shall at once be installed as hereinbefore provided.

SEC. 16. Members not present at the regular organization of the National Council, and those elected to fill vacancies, may be installed at any time by taking the constitutional oath.

# CHAPTER III.

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## AN ACT RELATING TO THE JUDICIARY.

<b>ART.</b>	<b>I.</b>	<b>General Provisions.</b>	<b>ART.</b>	<b>IX.</b>	<b>Witnesses and Subpœnas.</b>
	<b>II.</b>	<b>Supreme Court.</b>		<b>X.</b>	<b>Executions.</b>
	<b>III.</b>	<b>Circuit Court.</b>		<b>XI.</b>	<b>Limitations of Actions.</b>
	<b>IV.</b>	<b>District Court.</b>		<b>XII.</b>	<b>Garnishment.</b>
	<b>V.</b>	<b>Juries.</b>		<b>XIII.</b>	<b>Attachment.</b>
	<b>VI.</b>	<b>Grand Jurors.</b>		<b>XIV.</b>	<b>Possession of Property.</b>
	<b>VII.</b>	<b>Criminal Trials.</b>		<b>XV.</b>	<b>General Rules.</b>
	<b>VIII.</b>	<b>Testimony and Rules relating thereto.</b>		<b>XVI.</b>	<b>Places of holding Courts.</b>
				<b>XVII.</b>	<b>Interpreters.</b>
				<b>XVIII.</b>	<b>Bonds.</b>
				<b>XIX.</b>	<b>Ejectments.</b>

## ARTICLE I.

### GENERAL PROVISIONS.

SEC. 1. The courts established under the government of this Nation, shall have cognizance of all suits arising under the constitution and laws of the Cherokee Nation, and of cases originating under the laws and usages of the Eastern Cherokees, existing previous to their removal, and of those under the laws and usages in existence among the Western Cherokees, prior to the Act of Union, dated the 12th day of July, 1839; and the adjudication of all questions, shall be according to the provisions of the respective laws under which they originated.

SEC. 2. The commencement of all suits shall be by summons, obtained from the clerk of the district in which the party sued shall be resident (except in cases

expressly provided for otherwise by law,) which summons shall, as exactly as practicable, describe the property sued for, or state the amount claimed, and also, for the proper understanding of the issue by the defendant, and the court shall concisely state the nature of the case, and the principal grounds upon which the claim is founded. Such summons must be served by some lawful officer, at least thirty days before the holding of the court having jurisdiction of the cause, and be returned to the clerk at or before the commencement of the term next following of such court. And the court shall give judgment as the right of the matter in law shall appear, without regarding any formal defect or verbal imperfection in such summons.

Sec. 3. Every summons shall run in the name of the Cherokee Nation, in the following form, to-wit:

CHEROKEE NATION, }  
\_\_\_\_\_  
DISTRICT. }

And shall be directed and issued substantially in the following form, or to the like effect:

TO ANY LAWFUL OFFICER, GREETING:

You are hereby commanded to summon (here insert the name of defendant,) to appear at the lawful place of holding court in said district, on the (here insert on what Monday of the month, and what year, court time shall commence,) there and then to answer the demand of (here insert the name of plaintiff,) who claims the right (or right of possession,) to certain property now in defendant's possession, to-wit: (here describe the property sued for, sufficiently clear for identification,) such property being worth, at a moderate estimation, in cash (here insert probable or appraised value at length,) and for cause of action, plaintiff alleges, that (here state the nature of the case and ground of claim, in clear and

concise language, so that the opposite party may acquire information of the main and essential facts, upon which plaintiff intends to rely, to establish his right.)

SEC. 4. If the claim is for a definite sum of money, insert after "who claims," in above form, the words, "a certain sum of money, to-wit:" (then state the sum demanded, with interest, if any,) and for ground of such demand, alleges that (state nature of case as required in above form.)

SEC. 5. If for any indefinite sum, state the largest amount plaintiff can expect to recover, and add, "or so much thereof as the court shall adjudge to be due," and close as before, with a statement of cause of action.

SEC. 6. After the nature of the case is stated, as required, the summons shall conclude as follows:

Fail not to execute this summons within the time, and return as required by law. Given under my hand and seal of office, on this the \_\_\_\_\_ day of \_\_\_\_\_ A. D. 18—.

Signed \_\_\_\_\_  
Clerk \_\_\_\_\_ Court \_\_\_\_\_ District.

SEC. 7. Any person, instituting a suit at law, when obtaining a summons for that purpose, shall file a bond, to the satisfaction of the clerk, for the payment of all the cost of that suit, conditioned upon the successful prosecution of such suit.

SEC. 8. The form of plaintiff's bond for cost, shall be substantially as follows:

Know all men by these presents, That we (insert name of plaintiff,) principal, and (insert name of sureties) sureties, do hereby bind ourselves, our heirs, administrators and assigns, to pay to (insert name of clerk,) clerk of \_\_\_\_\_ district, or successor in office, a

sum of lawful money, sufficient to discharge all the cost that may attach to a certain suit, instituted before the——court of said district, wherein the above named principal of this bond is plaintiff, and (insert name of party sued,) is defendant.

Signed, on this the——day of——A. D. 18—.

The condition of this obligation is, that should the aforesaid (insert name of principal,) prosecute said suit to a final and successful termination, this bond shall be null and void, otherwise it shall remain in full force and effect.

Sig. — — — [L.S.]  
Security, — — — [L.S.]  
Security, — — — [L.S.]

SEC. 9. No accepted and *bona fide* bond for cost of a civil or criminal suit, shall be required to be put in suit against the sureties, but execution may immediately issue upon its forfeiture against the principal and sureties. But such execution shall be served upon the property of the principal first, and if not sufficient to discharge such cost, then upon the property of the sureties.

SEC. 10. Any summons or notification authorized by law to be issued, citing or informing one of the parties to a cause, when the case is to be tried or evidence taken, shall be served; if practicable, upon such party in person, and so certified by the officer serving. But when after diligent search, such party cannot be found within the district where he has been till that time residing, and the officer shall have cause to believe that he is trying to evade such service, such summons or notification may be served, by the officer having such service in charge, by leaving a copy in full of such summons or notification at the party's usual place of residence, with any person not less than ten

years of age. And when any summons or notification is so served by copy, the original process shall be returned with the certificate of the officer, that it has been so served, with the date of such service; and such service shall be to all intents and purposes, a valid and sufficient service as against any party who may be residing or living within the limits of this Nation, at the time of the issuance of the summons.

SEC. 11. When two or more persons live in different districts who ought to be sued jointly, it shall be lawful to sue all in one of the districts, where one or more of them are resident. In such event, the summons must cite all to answer, before the court of the district wherein the suit is to be brought, and be served upon the particular defendants living therein. But duplicate summons shall be issued, corresponding in number to the number of other districts, where the other defendants reside, which shall be forwarded to the sheriffs of those districts, there to be served upon such defendants and returned as required by law. But before sending such duplicate summons abroad, the clerk issuing the same, shall endorse upon each, upon what particular defendants it is there to be served, and also that such summons is a duplicate; and he shall also endorse upon each duplicate the defendants to be summoned.

SEC. 12. When any person has been joined to another in any civil case, either as plaintiff or defendant, who ought not to be so joined, or when any person has been omitted to be joined as plaintiff or defendant

in any suit, who ought to be joined, such non-joinder or misjoinder may, upon the showing good reasons therefor to the court by either party, and notice given to the opposite party, be amended by order of the court adding or striking out such person from the record of the case; *provided*, the consent of such person be first obtained, and such amendment shall be made without making any further delay in the proceedings than may be required to hear and determine such motion.

## ARTICLE II.

### SUPREME COURT.

SEC. 13. The supreme court shall consist of three judges, one of whom shall be elected by a joint vote of the National Council as Chief Justice. In the absence of the Chief Justice, the senior Associate Justice by commission, shall act as Chief Justice "*pro tempore.*" Any two of the judges shall form a quorum to transact business and decide cases.

SEC. 14. Each Chief Justice shall appoint, to serve during his term of office, a clerk of the supreme court, who may be removed from office before the expiration of the term, for neglect, inability or misconduct, by the Chief Justice or by the other judges. The clerk of the supreme court shall take the oath prescribed by law to be taken by the district clerks, and it shall be his duty also, to enter on a docket, to be kept for that purpose, all causes brought into this court, and to record faithfully all proceedings and decisions in books,

and to preserve with care all papers and books appertaining to the business of the court.

SEC. 15. The court shall have exclusive jurisdiction of all cases instituted to contest an election held by the people, and brought before the court as provided by law. The court shall also have final jurisdiction of all cases and questions of law and evidence connected therewith, that shall be appealed from the circuit court according to law, and the court shall have the power to decide upon the constitutionality of any act of council involved or brought in question in any case so appealed.

SEC. 16. In case any of the judges of the supreme court are interested in any cause that may be pending before that tribunal for decision, or are related to any of the parties who may object to such judges presiding at the trial of a cause, and produce proof of such interest or relationship, in the manner directed by law, it shall be the duty of the Chief Justice, on receiving such notice, to lay the notice before the supreme court for its action at its first meeting, and direct the docketing of the case agreeable to the rule established by the court for the docketing of other cases, and the court proving the objections well founded, it shall then be the duty of the Chief Justice to notify, in writing, the Principal Chief of such objection, and that they are sustained by the supreme court, the case then to be called once, and passed over, the papers not to be opened by the court, but held for the special judges to be hereafter appointed, and to them transferred at the

close of the regular session of the court, or in the regular order of the calling the docket as the regular court may elect; on the receipt of such notice by the Principal Chief, it shall be his duty, by and with the consent of the senate, to select such a number of persons of good character and knowledge of the law as shall correspond with the number of judges so interested or related as shall have been objected to, and specially commission said persons for the trial of such cause.

SEC. 17. In case one of the justices of the supreme court shall be absent during a part of the regular session of the same, and the remaining two shall hear, and after consideration of any cause, be unable to agree upon a decision thereupon, the case shall be suspended until the whole bench are present, when the suspended case shall be considered and decided, after a rehearing from both parties.

SEC. 18. In the trial of contested elections, the court shall be confined to an examination of the returns of such election, and of the testimony relevant to the grounds set forth by the contestant in support thereof or opposition thereto, that shall be taken and forwarded to the supreme court within the time and in the manner provided by law.

SEC. 19. In the trial of all appealed cases, and of questions of law and evidence connected therewith, the court shall be confined to the papers and documents, constituting each case, that shall be transmitted by the

clerk of the circuit court in conformity to law, *provided* that either party shall have the right to except to the accuracy and completeness of any part of the transcript of the testimony, or other paper forwarded, upon motion to the court made previous to the argument of the case, and accompanied with particular specifications of a serious and material disagreement between the showing of the case, as transmitted, and as submitted to the lower court and filed in the clerk's office. If such motion be accepted, the question shall be determined by an examination of the clerk and of the papers belonging to that case, recorded and filed in his office, and, upon suspicion of fraud entertained by the court, the court may determine the question by any other testimony they may deem of service to expose the same, for which purpose, the court may order the immediate attendance of said clerk, with the official record of the case, for the inquiry and inspection of the court. If the court shall find the exception made as above provided, well taken, and the transmitted papers materially defective, as alleged, they shall proceed to try and decide that case upon the original record; *provided*, such record be not objected to, and if so, there shall be no just ground for suspecting a fraudulent alteration thereof. But if such fraud be evident to, or suspected by the court, the case shall be dismissed.

SEC. 20. Should any clerk be found guilty of wilful neglect or fraud, in the course of the examination provided in the above section, the court shall enter their decision accordingly; and the clerk of the supreme court

shall forward a copy thereof to the Principal Chief, who shall suspend the clerk, so offending, from office, and report him to the next National Council for malpractice. And the clerk, so reported and suspended, shall be responsible for the full amount of cost that may attach to the suit dismissed for fraud, which cost shall be collected out of the salary due such clerk, and he shall forfeit, upon trial and conviction, the rest of any salary due him, at the time of suspension, to the Nation, for the use and benefit of the public schools.

SEC. 21. No case shall be continued twice (from one term to another) after the suit has been docketed and called, except by consent of the parties. But upon satisfactory showing to the court by either party, that damage to his interests involved in the case, may be reasonably apprehended from a trial at that time, on account of some accident or unexpected event connected with the suit, the court may, at its discretion, grant relief by ordering a continuance until the next term.

SEC. 22. The supreme court shall have power to make and award such judgments, orders and decrees, and to issue such writs and processes as they may find to be necessary to carry into full effect the powers which are or may be hereafter vested in them by law.

SEC. 23. The supreme court shall have authority, within the limits of their judicial action as prescribed by law, to exercise a general superintendence over courts of inferior jurisdiction, through and by means of decisions made and declared by the court upon questions of

law, evidence, and practice, submitted to them in the course of the trial, or examination of all causes of which they shall be allowed cognizance by law.

SEC. 24. The court shall have power to prescribe, from time to time, such rules of practice for regulating the procedure in the trial of cases in the lower courts, as they may deem necessary, expedient or serviceable, and which shall not conflict with the rules prescribed by law. And the object of the court in prescribing such rules, shall be, the more speedy and accurate presentation of the issue or point of difference between the parties, the exclusion of unnecessary and irrelevant testimony, and the more certain administration of justice.

SEC. 25. After the docket has been disposed of at each term of the court, the court shall continue in session for the consideration of reports of the judges of the circuit courts and for the establishment of such rules of practice, for the use of the lower courts, as the court shall deem expedient to adopt and impose, and the clerk of the supreme court shall record the rules so adopted and imposed, as part of the proceedings of the court, and shall, previous to the next regular term of the respective courts, or whenever applied to by any of the judges, prepare and furnish a certified copy of such rules to such judge, for his information and guidance.

SEC. 26. When an appealed case is opened for consideration by the supreme court, the court shall first consider and decide such questions, if any, of evidence, as may have been appealed from the decision of the

circuit court. Should the court decide that the testimony, offered and excluded in the court below, ought to be admitted, or that testimony there admitted ought to be excluded, or in either case shall confirm the decision of the court below, they shall proceed to try and decide the case upon that part of the testimony transmitted, or the whole thereof, as shall be found by them to be proper evidence in the case.

SEC. 27. All decisions of the supreme court, (intermediate and final,) shall be made and rendered, as well for the government and guidance of the lower courts and the citizens of this Nation in general, as for the just and true interpretation of the law, and the settlement of the dispute and administration of justice between the parties. Accordingly, each decision shall be accompanied with a statement, as far and as full as may be practicable, or necessary for the purpose, of the grounds in law or evidence upon and by reason of which, such decision has been made. Each decision shall be attended or preceded by a distinct statement of the issue between the parties, the situation of the case as set forth by the evidence before the court, the law or laws governing the case, and the interpretation and application of the same by the court, with the reasons therefor, and the principles of law or evidence involved in the suit and affecting the decision thereof; and of such other matters and considerations, having relation to the decision, which the court may deem essential to give value and force to a law precedent for the government and guidance of the courts and citizens of the Nation in similar cases arising thereafter.

SEC. 28. All decisions made by the supreme court shall have the force of law, as to the construction and application thereof, in all the courts of this Nation, until such construction or application shall be limited, altered, or in any manner amended, by a subsequent decision of a subsequent case by the supreme court.

SEC. 29. The judges of the supreme court shall have and exercise exclusive criminal jurisdiction of all cases of manslaughter, and of all cases involving the punishment of death, which shall be instituted as required by law, "whether such cases originated under the laws previous to November 1st, 1875, or that have arisen or may hereafter arise under laws subsequent to said date of November 1st, 1875—*provided* that in the trial of such cases the court shall state to the jury the particular law or laws under which such cases originated and are to be tried, whether under the laws existing previous to said date of November 1st, 1875 or subsequent to that date."—(December 4th, 1877). And in order to ensure an equal division of labor between the judges, it shall be the duty of the Principal Chief to divide the districts of the Nation into three supreme judicial circuits, as equally as to population as may be practicable, and which circuits shall be respectively numbered, first, second and third; the district of Delaware being in the first, Tahlequah in the second, and the district of Canadian in the third. To each of the circuits, when defined, one supreme judge shall be assigned by the Principal Chief, by proclamation of such assignment made in the usual manner. Each judge,

and his successors, unless disqualified by relationship, shall preside, within his circuit, over the trial of the description of cases designated above; *provided*, the Principal Chief may, at the commencement of each year, make such changes as to the limits and extent of any circuit defined by him, and as to the assignment of the judge thereto, as he shall deem expedient. Such changes to take effect upon proclamation thereof, as provided above.

SEC. 30. Should any supreme judge be related, in any criminal case reported to him, whether to the accused or to the person upon whom the crime has been committed, and be objected to, or should he be disabled from presiding by any sufficient and lawful cause, he shall, as soon as such case is reported, transmit by the sheriff reporting the case a written notice of such disqualification or disability, with the cause thereof, to either of the other supreme judges, who shall be authorized then to try that case; and should the judge thus notified be objected to and be disqualified likewise by relationship, or be unable to preside, he shall forward the notice received from the first judge, with a notice of the like tenor and effect from himself, to the remaining supreme judge, who shall be authorized to proceed and try that case. And should all the supreme judges be related or unable to preside in any case, the last judge to whom the case shall be reported shall transmit the written notifications received by him from the other judges, with a like notification of the cause of his own disqualification, to the Principal Chief, who

shall then appoint and commission some suitable person to preside as special judge in the trial of that case; *provided*, that, any judge, notified as above, shall proceed to call court for the trial of the case reported; and no judge shall be held to be disqualified by relationship, except he be lawfully objected to for that reason, at the first calling of such case by such judge; otherwise the consent of both parties to his presiding shall be presumed as being given by both parties.

### ARTICLE III.

#### CIRCUIT COURTS.

SEC. 31. There shall be established three judicial circuits, which shall be respectively designated and known as the "northern," the "middle" and "southern" circuits. The northern circuit shall be composed of Delaware, Coo-wee-skoo-wee, Saline and Tahlequah Districts. The middle circuit shall be composed of Going Snake, Flint, Sequoyah and Illinois Districts. The southern circuit shall be composed of Canadian District.

SEC. 32. There shall be one judge elected for each circuit, by the qualified voters of the districts composing the same, at the time and places, and in the manner ordained by law, and whose term of office shall be that prescribed by the constitution, and whose election shall be determined as provided by law.

SEC. 33. The judges shall hold their respective

courts in each district commencing on the days following, to-wit: In Delaware and Going Snake, on the first Monday in May and September; in Coo-wee-skoo-wee and Flint, on the second Monday in May and September; in Saline and Sequoyah, on the third Monday in May and September; in Tahlequah and Illinois on the fourth Monday in May and September; in Canadian, on the last Monday in April and August, of each year.

SEC. 34. The circuit courts shall have "jurisdiction of all criminal cases, except those of murder and manslaughter, involving directly or indirectly a sum exceeding one hundred dollars"—(December 4th, 1877,) and of all civil suits in which the title to real estate, or the right to the occupancy of any portion of the common domain shall be in issue, and of all other civil suits in which the amount at issue shall exceed one hundred dollars. But the court may try and decide all causes that shall be brought before it by appeal from the district court, in which the value of the demand in each case shall not be less than twenty-five dollars; and the decision of the court in cases so appealed from the district court shall be final.

SEC. 35. The circuit court shall observe and be guided by such rules regulating the mode of conducting suits in such court, as may be established by law, and by those made and approved for that object by the supreme court, not conflicting with the former.

SEC. 36. The circuit courts shall have power to adopt and practice such other rules and methods of

conducting cases therein, as it may deem proper and serviceable for the administration of justice between the parties, not inconsistent with the general rules imposed by law, or those established by the supreme court; and to make and issue such subpoenas, orders, injunctions and other processes and writs, as the court may find necessary to develop and obtain evidence, and to carry into full effect, for the finding, determining and securing the rights of both parties to a suit, the powers that are or may be given to the court by the laws of the Cherokee Nation.

SEC. 37. Each judge shall make out, arrange and number, such rules as may be adopted by him, pursuant to the authority given him in the preceding section, which rules the clerk of each court shall copy in a book to be kept for that purpose, with the rules established by law and those imposed by the supreme court. At the close of each fall term, the several judges shall forward a copy of their respective rules of practice, with such explanations as they may deem proper, to the clerk of the supreme court, to be endorsed or amended by that court.

SEC. 38. The clerks of the circuit courts shall, in all cases liable to be appealed, record in full the testimony of oral witnesses on both sides, and the proceedings of the court; and shall record, as part of the proceedings, all motions made by either party, with the rulings of the court thereon, and the general reasons therefor, as presented by the court and approved by

him. And in case of an appeal, no ruling, unless excepted to at the time of its delivery, and so entered in the proceedings, shall be subject to the consideration and revision of the supreme court.

SEC. 39. When evidence, offered by either party to a suit before the circuit court, shall be objected to by the other party as inadmissible, and there appears to the court to be no rule previously established by the supreme court by which the question of its admission or exclusion may be promptly determined, such testimony, if rejected by the judge, shall be separately filed with the other papers in the case, enveloped and marked as "testimony objected to and rejected," and shall, in case of an appeal, be forwarded to the supreme court as part of the case, with the ruling of the circuit judge thereupon, for their final decision.

SEC. 40. Any testimony, objected to as above, and accepted by the judge, shall, if oral, be marked by brackets and the words "objected to" written upon the margin, and, whether oral or documentary, the clerk shall clearly designate in his report of the proceedings in such case, what testimony so objected to has been received or rejected by the circuit judge, and in case of an appeal, the question of the admissibility of such testimony shall, if submitted by the party, precede the trial of the case.

SEC. 41. Any case, in which the amount at issue shall exceed one hundred dollars, may be appealed to the supreme court by either party, provided an appeal

be moved for before an adjournment of the court. And, in the event of an appeal, a copy of the testimony of oral witnesses, and of the proceedings and decisions of the court and jury, with the original documentary testimony submitted to the court, whether original instruments or copies, shall be certified to by the clerk as the testimony rendered in that case, and be sealed up by him, with the names of the parties and the subject of dispute marked on the outside; the package shall then be directed to the chief justice of the supreme court, and placed in the hands of the sheriff of the district, to be conveyed by him to the clerk of the supreme court, on or before the first Monday of October in each year.

SEC. 42. Should the defendant in any case appeal, as provided above from the circuit to the supreme court, the appeal shall be void, and executions shall issue upon the judgment of the circuit court, unless such defendant shall within three days after the adjournment of the regular session of the court, file a bond with security, and to an amount satisfactory to the presiding judge, for the maintenance of the suit on his part, or the payment of all lawful costs of suit.

#### ARTICLE IV.

##### DISTRICT COURTS.

SEC. 43. There shall be established one district court in each district, and one judge for each court, who shall be elected for the term of two years by the

qualified electors of their respective districts, at the time, places, and in the manner provided by law.

SEC. 44. The district courts shall have "jurisdiction of all criminal cases, whether felonies or misdemeanors, involving, directly or indirectly, the sum of one hundred dollars or less amount. All indictments for the prosecution of felonies or misdemeanors must state the probable amount claimed by the claimant, whether in damage, property, effects or money."—(December 4th, 1877.) They shall also have jurisdiction of all civil suits in which the value of the demand shall not exceed one hundred dollars, and the decisions of the court, in all cases where the sum shall not exceed twenty-five dollars, shall be final; when over twenty-five and not over one hundred dollars, an appeal may be granted to the circuit court; and the witnesses again be summoned to appear and give testimony in that court.

SEC. 45. If the defendant takes an appeal he shall be required to give bond and security to the satisfaction of the judge for the payment of all cost that may attach to that suit, as provided by law.

SEC. 46. The method of conducting suits in the district court, shall conform to the rules governing the practice established by law, and imposed by the supreme court, so far as the same can be applied in each case by the judge thereof, and it shall be his duty to impartially instruct, advise and inform, either or both parties to any suit, as he may deem it necessary, in regard to the requirements of such rules, for the

proper accomplishment of the object therecf, as declared by law.

SEC. 47. The district courts shall hold their regular terms, for the trial of all civil causes, at the places respectively designhated for holding court in the several districts, on the first Monday of January and July.

## ARTICLE V.

### JURIES.

SEC. 48. The trial of all cases, in which the issue is wholly, or in part, one of fact, and to be determined by evidence, shall be by jury, except contested elections and cases that may be brought before the supreme court by appeal from the circuit court.

SEC. 49. No person who is related to either of the parties to any suit, either by consanguinity or affinity, nor any person who is interested in the termination of a suit, or who has previously served as juror in the trial of that case, shall serve as juror in that suit. No person under the age of twenty-one years, nor any person who has been convicted of any felony, nor who may be under punishment for misdemeanor, shall be summoned to serve on a jury in any case. And no member of the legislative or executive departments, or any commissioned officer of this Nation, nor any officiating minister of the gospel, practicing physician, lawyer, public ferryman, school teacher, or person older than sixty-five years, shall be compelled to serve on any jury, grand jury, or as guard.

SEC. 50. The judge of each court shall, at least thirty days before the regular term of such court, make out and furnish the sheriff with a list of names of respectable persons who shall be summoned to act as jurors, and the judge or clerk shall administer to them the following oath: "You, and each of you, do solemnly swear, that you will well and truly try all issues that may be submitted to you, and left to your decision by the court, during the present term, and true verdicts render according to the evidence,"—which oath shall authorize said jury to try all issues, that may be submitted to them during that term of the court. Five persons shall constitute a jury in the trial of all civil suits, any three of whom may render a verdict.

SEC. 51. Within the two weeks immediately following the reception of his commission, each of the several judges of courts, shall make out and transmit to the clerk of his district, or of each district within his judicial circuit, a list of one hundred and forty-four names of persons, the most competent and suitable, having the qualifications of jurors, and being residents of the district, which list the clerk shall file, and write the names contained in each on separate slips of paper, and deposit and safely keep such slips in separate boxes marked "circuit court," "supreme court," and "district court." And whenever a criminal case is reported, the sheriff shall, in the presence of the clerk, draw slip by slip, by chance, from the "box," of the court having jurisdiction, the number of slips corresponding to the number of names required by law; from

which slips the clerk shall make a list of names, until the number of jurors required have been obtained, and shall cause immediately to be summoned, the persons designated thereby to serve as a jury in that case at the time fixed for trial. If the list in either box is exhausted before the expiration of the year, additional lists of half the number may from time to time be in like manner furnished by the judge, but no person shall be again summoned to serve on a jury in the same court, until those included in the list first furnished by the judge have served once.

SEC. 52. The judge furnishing lists of jurors, or clerks filing such lists, as provided in the preceding section, shall not give information, to any person, what names have been so selected and furnished, until they shall have been drawn by the sheriff to serve as jurors as provided; and any judge or clerk who shall give such information, shall be deemed guilty of criminal negligence and misconduct in office, and shall be removed from office therefor by the Principal Chief.

SEC. 53. In all cases of manslaughter and those involving a capital charge, the sheriff shall draw, to be summoned in the manner provided in the preceding section, twenty-four persons to serve as jurors, and the court, before proceeding to impanel the jury, shall propound to each one, on oath, the question, whether or not he has formed or expressed an opinion as to the guilt or innocence of the prisoner arraigned for trial; if the answer be in the affirmative, to either question, the court shall propound the further question, whether such

opinion, so formed or expressed, would deter him from being an impartial juror, or from rendering an impartial verdict as such. Any juror answering both questions in the affirmative shall be set aside.

SEC. 54. But any juror, answering the latter question in the negative may be interrogated by the court, or, by permission of the court, may be interrogated by either of the parties in reference to his opinion so formed or expressed, and the court may, in its discretion, set aside such juror, upon reasonable suspicion of bias in the mind of such juror, for or against the prisoner. Other competent persons shall be immediately summoned in place of those set aside, whose qualifications to sit shall be tested in like manner, until the requisite number of twenty-four impartial and competent jurors shall be obtained, of which the prosecution shall have the right to challenge or object to six; the accused, if he chooses, or upon his refusal to choose, the court shall select out of the remaining eighteen, the twelve to try the case, who shall be qualified therefor by the judge or clerk. But, in all other criminal cases, the clerk shall summons twelve, after the same have in like manner been drawn by the sheriff, who shall be empaneled as above, the prosecution objecting to three, and the accused or court selecting the six out of the remaining nine to try the case. No verdict shall be rendered in any criminal case without the unanimous consent of the whole jury.

SEC. 55. In case of a disagreement of the jury, and the court being satisfied that such jury cannot agree,

the jury shall be discharged, and a new jury, in like manner, empaneled to try that case.

SEC. 56. In the second, or any after trial of any criminal case, proceedings shall be conducted upon the charge preferred as if no previous trial had been had; *provided*, either party shall be allowed to examine witnesses as to their former statements, and to introduce such statements as evidence in regard to the creditability of such witnesses.

SEC. 57. After a jury has been impaneled in the manner above prescribed, it shall be the duty of the presiding judge to place said jury in the custody of the sheriff, or his deputy, who shall keep the said jury from separating and from holding intercourse with any person, without the permission of the court, until they have rendered a verdict, or been discharged by the court; and any juror holding, or attempting to hold, any intercourse with any person, without the consent of the court, while in the custody of the sheriff, shall be peremptorily fined by the court not less than twenty-five dollars, nor more than one hundred dollars. It shall be the duty of the sheriff to furnish any jury thus placed in his custody with necessary provisions and refreshments, the expense of which shall be paid by the Nation.

SEC. 58. In charging the jury, the judge shall, in all cases, present the testimony without signifying his opinion of the weight and preponderance of the evidence. He shall state the law applicable to the case as set forth in the summons or indictment, with such

instructions as to the kind and degree of proof required to sustain the allegations or charge, as he may deem of service, or necessary to guide the jury to a just and legal decision or verdict.

SEC. 59. If the jury shall disagree in any criminal case, the presiding judge shall require them, or either of them, to make known to him the cause of such disagreement, and if such disagreement, in whole or in part, shall be as to the meaning or the application of the law to the facts found by them, the court shall instruct them thereon, in which case, the jury shall return to their deliberations, and continue the same until they agree, or the judge is satisfied they cannot agree.

SEC. 60. Before impaneling a jury in civil and criminal cases, the court shall make such enquiry of those summoned to serve as to their legal qualifications, as he may deem necessary; and either party may at the same time allege such good cause of disqualification as he may be aware of, which alleged cause shall be examined and determined by the court. The places of those who may be disqualified shall be filled by other competent persons, to be immediately summoned.

## ARTICLE VI.

### GRAND JURORS.

SEC. 61. At least fourteen (14) days before the commencement of the first regular terms of the circuit and district courts, in each year, the judges of both courts shall each furnish to the sheriff of each district,

a list of five names of persons, to be selected from the most respectable, intelligent and responsible citizens of the district, who shall be summoned to act as grand jurors for that district during the year, and to sit during the regular terms of the court respectively, unless sooner discharged by the court, and, if required by the solicitor, for any other period not more than five days, and at or near the regular place of holding court, after the adjournment of the court. No person summoned to serve as grand juror shall be exempt from service, except on account of personal sickness, severe or dangerous sickness in his immediate family, or recent death, and before burial of any member thereof. In case of the absence of any person summoned as grand juror, his place shall be filled by some competent person who shall, if necessary, be summoned by special writ.

SEC. 62. At each regular term of the court, the grand jury shall be instructed by the court, and shall enter upon their duties before other business is done, or any case is called.

SEC. 63. The following oath shall be administered to the grand jurors before they proceed to business, viz:

You, and each of you, as grand jurors, for and in behalf of this, the district of \_\_\_\_\_, do solemnly swear, that you will diligently inquire and true presentment make, of all such matters and things as shall be given to you in charge; the purport of your intercourse with each other, with witnesses and with the solicitor of the district, you will keep secret while you are so engaged; that you shall indict no man for envy, hatred or malice, nor leave any man unindicted for love, fear, favor or affection, or hope of reward, but that you shall present

things truly as they shall come to your knowledge, according to the law, your instructions and the evidence, and the best of your understanding of these, so help you God.

SEC. 64. After being impaneled as above, the grand jury shall elect their foreman, by ballot, who shall act as foreman during the whole of their term of their service. In his absence, another foreman may be elected.

SEC. 65. It shall be the duty of the grand jury to hear and inquire into all complaints or accusations of crime or misdemeanor of which their courts respectively shall have jurisdiction; and the grand jury of the circuit court shall inquire into cases of which the supreme judges have jurisdiction, to call for and examine persons whom they may have reason to believe may be aware of the perpetration of any indictable offense within their respective districts, to make use of all the means placed in their power, to develop a discovery of all violations of law of which they shall have cognizance, to inquire into and to present such indictments, or discharge such accusations, as shall be in conformity to law and the instructions of the court.

SEC. 66. A majority of the grand jury may find an indictment.

SEC. 67. It shall be the duty of the solicitor of the district to be in attendance at court during the sessions of each grand jury of his district, to report to said grand jury all cases of violations of law subject to their inquiry, which have been reported to him, or which

may have come to his knowledge in any manner; to have present or forthcoming, if possible, such testimony as may be required to establish a *prima facie* case, and to advise and assist the grand jury, on part of the Nation, in the prosecution of new inquiries, in the production of evidence of offenses, and in the framing of indictments for the trial of the same when sufficient evidence has been produced.

SEC. 68. No indictment shall be found by the grand jury against any person suspected, unless from the evidence before them the grand jury shall believe upon their oaths that the accused is guilty of the charge preferred, and unless the evidence produced is, in their opinion, sufficient, if not contradicted or explained, to induce and justify a conviction of the offense when tried by an impartial jury.

SEC. 69. The grand jury shall appoint one of their number clerk, who shall record their proceedings in general, and keep a record of all witnesses sworn and examined by them, and report their names and time of service to the district clerk, who shall issue certificates accordingly.

SEC. 70. All persons desirous of informing of, or prosecuting any offense, shall, in the intervals between the regular terms of holding courts, communicate to the solicitor of the district information of the facts connected with such case. And the solicitor shall inquire into the accusation or case, with due diligence and care, to ascertain the probable truth of the same. Should the solicitor, after inquiry, have good cause to believe that

an offense has been committed, which a disclosure of the evidence available, shall enable him to prosecute, he shall cause the witness to be summoned to appear before the next grand jury; and in all cases he shall report the accusation or information presented to him, from any source, with his views thereon, to the grand jury, with the probable degree, and amount of evidence in regard thereto, for their action; *provided*, that proceedings shall not have been instituted according to law by the solicitor previous to the session of the grand jury.

SEC. 71. No solicitor shall disclose to any person, except members of the grand jury, any information that may come to his knowledge through operation of the preceding section, nor shall any grand juror or officer of the court disclose any matters pertaining to the actions or proceedings of the grand jury, nor that any indictment for felony has been found against any person, not in custody or under recognizance, otherwise than by issuing or executing process on such indictment, until such person shall be arrested.

SEC. 72. No grand juror or solicitor shall state or give information, at any time, of the matter sworn or testified to by any witness who may be brought before any grand jury, nor shall he state or testify in what manner he or any other member of the jury voted on any question, or what opinion was expressed by any juror in relation to such question. And in charging the grand jury, the court shall remind them of the provisions of this and preceding sections.

SEC. 73. Witnesses shall be summoned to appear before the grand jury, by subpoena issued by the district clerk upon application of the solicitor or the foreman of the grand jury, and served and returned by the sheriff.

SEC. 74. Indictments shall be issued substantially in the form following, to-wit:

CHEROKEE NATION,

—District. ) “We, the grand jury of  
— district, after carefully and impartially, and while  
under our several oaths, having considered certain  
testimony of sworn witnesses, do hereby charge one—,  
with a criminal violation of the law of the Cherokee  
Nation, found in section—, chapter—, or in “an act  
entitled an act [state title of act], to-wit: That the said  
[name of accused], did on or about the [state time as  
near as may be], and at or about the [state place of  
crime], commit the crime of [state the nature of the  
offense and describe the act charged], which act so  
committed was against the peace and dignity of the  
Cherokee Nation.”

Date—.

Signed, —,  
Foreman of grand jury, — district.

SEC. 75. No grand juror, clerk, sheriff, or any other person to whom information shall come in the course of the performance of their duties of the finding of an indictment by the grand jury or solicitor, shall, before the arrest of the person charged, unnecessarily utter, convey, or by any means disclose such information to any other person; and any person, so doing, shall be subject to be reported to the judge of the court before which the indictment is to be tried, and, if found guilty, summarily, fined for contempt, not exceeding fifty dollars.

SEC. 76. The indictments, found by the grand jury, shall, at the adjournment of each session, be placed by the foreman in the hands of the district clerk, who shall issue warrants of arrest accordingly, and place the same in the hands of the sheriff of the district for service. The trial of any accused person shall proceed upon the original indictment found; but, in all cases after arrest, the accused shall be furnished by the clerk with a copy of the indictment, upon his application to the clerk for the same.

SEC. 77. Whenever information of the commission of any felony within his district shall come to the knowledge of any solicitor at any time between the sessions of the grand jury, and the due execution of the law shall, in his opinion, make it unsafe to wait for their action, but shall require an immediate investigation of the facts of the case, with the view to prevent the escape from justice of any person or persons already arrested, or strongly suspected; or to ascertain and fix the crime upon the guilty party; he shall be required to obtain from the district clerk subpoenas commanding the sheriff to summon such witnesses, whose testimony the said solicitor shall, after due inquiry, or from reliable information, judge to be necessary to a full and fair investigation of the matter, to appear before such clerk at some convenient time and place to be examined. The clerk shall preside over such examination, and shall reduce the material portion of the testimony of all the witnesses examined, to writing. After the examination of the witnesses that may be present, the clerk

may, upon satisfactory showing by the solicitor that any material witness already summoned has refused to attend, or that material and available testimony has come to his knowledge too late to be obtained at that time, adjourn further examination of the matter to some reasonable time; and, if the adjournment shall be applied for to obtain the testimony of any witness already summoned to appear, he shall issue a compulsory process, requiring the attendance of such witness. Any person, under arrest upon suspicion or charge of having committed the crime under investigation, shall be duly notified by the sheriff, or other officer having him in charge of the pending of such examination, and subpoenas for witnesses shall be issued at the instance of such person; but no adjournment shall be granted upon his application, except by consent of the solicitor. The object and purpose of the preliminary examination herein provided for, shall be to ascertain whether a crime has been committed, and if so, by whom; and the solicitor shall conduct it without special desire or endeavor to fasten the guilt upon any particular person, further than the facts discovered or obtainable shall warrant.

SEC. 78. After the preliminary examination above provided for shall have closed, the clerk may, upon motion of the solicitor, discharge from custody any one already arrested upon charge of the crime investigated, should no sufficient proof appear to the solicitor to warrant a conviction upon trial; or should such sufficient proof appear against the prisoner, or against

any other person, from the testimony produced, the solicitor shall be authorized to file an indictment in consonance with the proof produced, and warrants of arrests, and to bring to trial, shall be issued accordingly.

SEC. 79. The preliminary examination, above provided for, may take place either with or without the arrest of any suspected person; but in any case of an arrest for felony by citizens, or when the solicitor shall deem it necessary to prevent the escape of any suspected person, he shall file information of the charge accordingly before the district clerk, who shall issue a warrant for temporary arrest against such suspected person to prevent his escape, until an examination can be had, as above provided.

SEC. 80. Any witness, who may testify in any preliminary examination, shall, if the solicitor require it, give his personal recognizance to the clerk in the sum of two hundred dollars, for his appearance at or before any special court to be called thereafter, to try any indictment found in consequence of such examination; and should any witness refuse to give such recognizance, he shall forfeit the amount due him for attendance, and be further subject to a fine, hereby imposed, of the amount of his recognizance, for the collection of which, execution shall be immediately issued by the clerk; and no property, except improvements, shall be exempt from satisfying such execution.

SEC. 81. No warrant for arrest for felony or misdemeanor shall be issued except upon indictments

found either by the grand jury or upon application of the solicitor, as above provided; *provided*, that any citizen shall, when the solicitor shall refuse to prosecute on account of insufficient evidence, have the right to indict and prosecute another for felony or misdemeanor, after first filing a bond, with good and sufficient security satisfactory to the clerk of the district, for the payment of all costs of the prosecution to be instituted by such person should there be no conviction; and no property, except improvements, shall be exempt from satisfying judgment upon such bond.

SEC. 82. When an indictment for murder has been found upon *ex parte* proof or issued upon application of a citizen as provided by law, and upon trial of such indictment and a hearing from both sides no sufficient evidence shall appear as charged, but sufficient evidence shall appear to justify a conviction for manslaughter, either in the first or second degree, it shall be lawful for the jury to find such verdict of manslaughter in the first or second degree, as the case may be, and as the facts, found by them under the law as stated and expounded by the court, may warrant.

SEC. 83. When an indictment for manslaughter in the first degree has been found, it shall be lawful, on the trial thereof, for the jury to find a verdict for manslaughter in the second degree, if the facts proved to them upon such trial shall warrant a verdict of manslaughter in the second degree, and not of the first as charged; and the presiding judge shall so charge the jury, when he shall deem it necessary.

SEC. 84. The verdict of a jury shall in no case convict any accused of any crime, other than that charged in the indictment, except as provided by law in the case of indictments for murder, or for manslaughter in the first degree.

## ARTICLE VII.

### CRIMINAL TRIALS.

SEC. 85. Any of the judges shall have the power to call and hold a special term of court for the trial of criminals for offenses over which they respectively have jurisdiction. And when a case shall be reported by the sheriff to the judge having jurisdiction, he shall bring the accused to an immediate trial, without further delay than shall be necessary to enable both parties to obtain testimony, according to the provisions of law in relation thereto, unless the accused shall give bail for his appearance at the next regular term of the court, to which time, in such case, the trial may be postponed.

SEC. 86. If any circuit judge shall be related by consanguinity or affinity to either of the parties to a criminal suit, (to the person injured or to the accused) and be objected to, he shall inform, by the sheriff, the supreme judge within whose criminal circuit the district, in which such criminal suit has been instituted, is embraced, of the pendency of such case, and the fact of such relationship or interest, with the degree thereof; and the supreme judge, so notified, shall be thereupon clothed with the powers of the circuit judge for the

trial of that special case, and shall fix the time of trial, and preside in the same accordingly.

SEC. 87. Should any district judge be so related, in any criminal case, and be objected to, he shall transmit information of the fact, by the sheriff of the district, to the circuit judge, within whose circuit said district may be included; and the circuit judge, so notified, shall thereupon be vested with, and shall perform, the powers and duties of district judge, for the trial of that special case.

SEC. 88. In case any supreme or circuit judge, who may be notified according to the provisions of the two preceding sections, shall be also disqualified by relationship in any criminal suit, such supreme or circuit judge shall, as soon as the fact shall come lawfully to his knowledge, notify the Principal Chief, by a statement of the facts in writing, and the Principal Chief shall be authorized to appoint and commission some competent person to preside as special judge in the trial of that case.

SEC. 89. If any judge shall be related by consanguinity or affinity to either of the parties in a civil or criminal suit, or be interested in the termination of a civil suit, either party may, at the first calling of said suit, after it has been docketed by the clerk, object to the presiding of such judge, and if no objection be then made, the consent of both parties to his presiding shall be construed as given, and no objection shall be allowed afterwards. When objection shall be made in any civil suit to any judge, as provided in this section, he shall

transmit the same to the Principal Chief, who shall appoint a special judge to preside in that suit.

SEC. 90. The compensation of judges, temporarily appointed to preside in special civil or criminal cases, shall be five dollars a day, while in actual service.

SEC. 91. When two or more defendants are jointly indicted for a criminal offense, any defendant, requiring it, may be tried separately and the prosecution may sever the trial of joint defendants when deemed necessary. But in all cases where the trial of joint defendants is severed, the court shall designate the defendant to be tried first.

## ARTICLE VIII.

### TESTIMONY AND RULES RELATING THERETO.

SEC. 92. Any person, of whatever religious belief, and of sufficient age and intelligence to comprehend the obligation of an oath, not excluded upon the ground of interest, and not otherwise disqualified by law, may be called as a witness in any suit brought before a Cherokee court. The following oath shall be administered to each witness when called for examination in any cause or proceeding, before making his statement, viz :

You do solemnly swear (or affirm,) that the statement you will make, and the answers you will give, in the matter whereof you are about to be examined, shall be the truth, the whole truth, and nothing but the truth, to the best of your knowledge. So help you God.

SEC. 93. All matters, properly affecting the cred-

bility of any witness who has been examined by one party, shall be allowed to be proven by the opposite party by means of cross-examination or by other witnesses, under the rules established by law or the supreme court and found applicable by the presiding judge. If no such rule be found applicable, the presiding judge shall determine it as justice shall appear to him to require, and shall cause his ruling on each point to be recorded with the reasons, in brief, therefor.

SEC. 94. Any person having a direct, personal, and pecuniary interest in the event of any civil suit at law, or any person, to whose personal pecuniary loss or advantage the verdict in any civil suit may be directly used or applied, shall be disqualified by reason of his interest in such suit from being a witness in the same, except in cases provided otherwise by law. And the presiding judge shall construe and apply this general rule in each particular case, as the facts shall seem to him justly to warrant, whether in reference to parties to the record or not. But no indirect interest of any kind, nor any direct interest, not pecuniary, growing out of the relations of any person with the parties in interest, shall disqualify such person from testifying in any cause; but such interest may be proven upon trial, and shall go to the credibility of the witness to such degree as the jury shall, upon their oaths, see reasonable grounds.

SEC. 95. The supreme court shall be authorized to

construe, interpret, explain and provide for the correct application of this rule, as occasion may require.

SEC. 96. It shall be the duty of the court, in the trial of any civil or criminal case, upon motion of either party, to order the opposite party to produce any documents, books, or papers in possession of such party, as shall be evidence in the case, and this rule may be enlarged upon, extended and explained by the supreme court, to effect the object thereof, as occasion shall require, under the general authority granted such court to establish rules for the uniform guidance and practice of the courts.

SEC. 97. Hearsay testimony shall not be generally admissible; but for the more uniform and regular practice of this rule of evidence by the courts, and in view of the modifications frequently found to be necessary in the course of its application, the supreme court shall define, limit, and explain this rule and its exceptions, with other rules to be adopted by such court, for court practice and guidance; and from time to time such court shall, by reference or otherwise, further define and explain such rule and its exceptions, as circumstances and the practice shall, in their opinion, require.

SEC. 98. All other rules respecting the competency and credibility of witnesses, and the admission, exclusion, and relevancy of testimony, are hereby authorized to be made and adopted by the supreme court, consistent with the general rules provided by law, and applied by the presiding judge in each pending case, so

far as such rules, or any of them, shall be applicable. In case the rules adopted shall not be applicable to any question of evidence, the presiding judge shall be authorized to so rule upon such question as, in his opinion, will best subserve the purpose of testimony; but all special rulings in criminal cases, with the facts explaining them, shall be, to insure uniformity of practice, recorded by the clerk, and be by him reported, in brief, yearly to the supreme court with civil cases, on or before the first Monday of October of each year.

SEC. 99. All suits upon a note of hand, or upon any written promise, covenant, contract, or sworn account, whatever, shall either have a copy of the written instrument or account embodied in full in the summons, or a copy of such instrument shall be by the plaintiff left in the hands of the clerk issuing the summons, when the summons shall be issued, for the information of the defendant; and no original document or writing, upon which suit is brought, shall be allowed to be produced upon trial, unless the defendant shall have been accurately notified of the contents thereof, as provided in this section.

SEC. 100. No documentary rebutting testimony shall be allowed to be produced as an off-set by the defendant, in any suit instituted upon a note of hand, promise, agreement, or covenant, or upon a sworn account, unless such documentary rebutting testimony, or copies thereof, shall be transmitted to, or left in the hands of, the clerk of the court issuing the summons in such suit, for the period of ten days or more immedi-

ately preceding the first holding of the court after the institution of the case.

## ARTICLE IX.

### WITNESSES AND SUBPOENAS.

SEC. 101. Parties, instituting and defending civil suits at law or representing the parties in criminal prosecutions, may apply to the clerk of the court having jurisdiction of the case, for subpœnas for witnesses, in their behalf, living within the limits of this Nation or elsewhere.

SEC. 102. No case shall be continued from one term to another by the plaintiff on account of the non-attendance of oral witnesses, unless subpœnas commanding their attendance shall have been obtained in time for service; nor by the defendant for the same reason, unless subpœnas have been obtained in like time by him, or oath is made by him that information of material testimony, possible to obtain, has come to his knowledge too late for the service of a subpœna.

SEC. 103. The original subpœnas issued for a witness living outside of the Indian Territory, shall be retained by the clerk, and kept on file with the other papers in the case, but a duplicate copy shall be furnished the party applying, for transmission to such witness.

SEC. 104. The original subpœna for any witness living within the Indian Territory, and without this Nation, shall likewise be retained by the clerk, but a

duplicate shall be furnished by the clerk to the party applying, to be placed in the hands of the sheriff of the district, who shall thereto attach an official request from under his hand requesting "any lawful officer," of the Nation where the witnesses reside to serve and return, by mail, the accompanying process to the hands of the sheriff forwarding the same, which duplicate shall then be enclosed and directed to "sheriff or executive officer" of the particular district or division of the Nation in which the witness lives, and be mailed at the nearest post office.

SEC. 105. No case shall be postponed from one term of the court to another, on account of the absence of any witness living outside of the limits of this Nation, unless the court be first assured that the testimony of such witness is material; that all lawful and proper endeavors have been made by the party, to obtain his attendance, and that either sufficient time has not been had for the purpose, or that the witness, having been notified, is willing to appear, but has been unavoidably prevented, and may reasonably be expected to be present at the next term.

SEC. 106. Any person, not a citizen of this Nation, who shall refuse, or willfully neglect, to obey a subpoena to testify, either in a civil or criminal case pending before a Cherokee court, may be reported by the party obtaining such subpoena to the solicitor of the district where such non-citizen resides, whose duty in such case shall be to report him to the proper authority for immediate removal as an intruder.

SEC. 107. Any citizen of this Nation, who shall fail to obey a lawful subpœna to testify in a civil or criminal case pending before a Cherokee court, and who shall not give timely information to the presiding judge, satisfactory to him, of good and valid reasons for his non-attendance, shall, upon complaint of the party obtaining the subpœna, setting forth the fact, and that he considered the witness important, be summoned by such judge to appear at the next regular term of the court and answer for contempt; should any citizen, so summoned, fail to appear to answer, or if he appear, and no valid excuse is set forth to the court's satisfaction for his non-attendance as witness, he shall be peremptorily fined for contempt in a sum not less than twenty-five dollars, nor more than one hundred dollars, at the discretion of the court, and be moreover liable to a suit for damages by the party by whom he had been subpœnaed, to the amount of the injury done such party by his non-attendance.

SEC. 108. In all criminal trials, when a witness has been summoned and is absent without lawful excuse, or where there is reason to suspect that a witness is seeking to evade the service of a subpœna to testify, and the party desiring his testimony shall make oath that he considers the testimony of the absent witness, material to him, the presiding judge shall be authorized to compel the attendance of such witness, either for or against the prisoner, by directing the clerk to issue a compulsory process, commanding the sheriff to arrest the witness, and have him in person at the time and

place fixed for trial, and the court may, at its discretion, and with due regard for the rights of the parties and the execution of the laws, continue the cause to such reasonable time or times, as will allow the attendance of any witness excusably absent, or the service of any compulsory process ordered by such court.

SEC. 109. No excuse for non-attendance on part of a witness, duly summoned to testify before any court, shall be deemed lawful and valid, unless satisfactory showing be made to the court that obedience to the summons was impossible, or would have been, attended with serious and unavoidable loss, or with probable and serious danger to his own health, or the health of his family.

SEC. 110. Witnesses summoned in any case, and serving until discharged or excused, shall be allowed one dollar for each day's attendance, including going to and returning from court

SEC. 111. In civil cases, the compensation of witnesses in each suit shall be attached to the same as costs, and shall be paid by the party cast, and no further costs shall attach to any suit.

## ARTICLE X.

### EXECUTIONS.

SEC. 112. Whenever final judgment is rendered in any case, by a court, the clerk thereof shall, within five days after the adjournment of the court, issue an execution, directed to any proper officer, to proceed forthwith and make collection from such party to the amount of

such judgment and costs; and such execution shall be returnable at the next session of said court, with a certificate of the proceedings had thereon, which shall be recorded by the clerk of said court.

SEC. 113. Property, levied upon by virtue of an execution, shall be advertised by the sheriff at three of the most public places in the district to be sold to the highest bidder; and for all sums not exceeding fifty dollars, such sale shall be advertised ten days, and for all sums over fifty dollars, twenty days notice shall be given; and the sheriff shall be allowed a fee of six *per centum* on all collections of money which may be made by him under an execution, to be deducted from the amount collected; *provided*, it shall not be lawful, except in cases otherwise expressly provided for by law, for any officer to levy upon, and sell to satisfy an execution the following property, which is hereby exempted and reserved for the use and benefit of the owners thereof, viz: The house, farm, and other improvements, mechanical tools, manufacturing and farming implements, one span of horses or mules, or in lieu thereof, one yoke of oxen, one wagon, one pair of harness, one saddle and bridle, wearing apparel, firearms, library, household and kitchen furniture, two hundred and fifty bushels of corn or other grain, one thousand pounds of pork or bacon, twenty head of stock hogs, five cows and calves, and all domestic fowls: *and provided further*, that the above exemptions, except so far as improvements are concerned, shall not apply to any case wherein a person shall be required by law to

give bond, and who shall give bond for the maintenance, security or preservation of national or individual interests; and this proviso shall extend to the sureties of such bond in like manner as the principal; but all the property and effects of any such principal or surety, with the above exception, shall be liable to be levied upon to satisfy any execution which may be issued upon any final judgment of the court declaring a forfeiture of such bond.

SEC. 114. Any execution, remaining unsatisfied in whole or in part at the next term of the court after its issuance, may, at the request of the party in whose favor it has been issued, be delivered to him by the clerk, who shall make record of such delivery. And any lawful officer shall be authorized, upon the application of the party holding such execution, at any time, to serve, in whole or in part, such execution upon any property of the debtor subject to levy, until the execution shall be fully satisfied, when it shall be returned, as provided above, to the clerk of the court from whence it issued, for a record of the proceedings had therein. And any officer serving such execution at any time in part, shall endorse upon it a certificate of the amount of such service for record.

## ARTICLE XI.

### LIMITATION OF ACTIONS.

SEC. 115. Judgment shall not be rendered for the recovery of any improvement upon the public domain in any suit brought before the courts of this Nation,

unless such suit be instituted, as required by law, within three years next after the time at which the right of bringing suit for the recovery thereof, or the cause of action shall have accrued to the person claiming the same, or to the person through whom he claims, saving to minors and persons "*non compos mentes*," the three years named above after the removal of their disabilities.

SEC. 116. Judgment shall not be rendered upon any written contract, obligation, or note of hand, in any suit brought before the courts of this Nation, unless suit be instituted thereafter as required by law within five years next after the time at which the cause of action shall have accrued to the person bringing the same, or to the person through whom he claims, saving to minors and persons *non compos mentes*, the three years above named next after the removal of their disabilities.

SEC. 117. Judgment shall not be rendered for the recovery of any claim or demand, except as provided in the two preceding sections, in any suit brought before the courts of this Nation, unless such suit be instituted for the recovery thereof, as required by law, within two years next after the time at which the cause of action shall have been accrued to the person bringing the same, or to the person through whom he claims; *provided*, it is made the duty of every administrator, guardian, and executor, to bring suit for the claims or demands due any estate or ward, within the time herein above specified, or such claims shall not be recoverable by law; and any administrator, executor, or guardian,

neglecting or failing so to do, shall be liable to the parties in interest for such failure or neglect.

SEC. 118. No criminal procedure, excepting in cases of felony or larceny wherein the sum is over twenty-five dollars, shall be instituted against any person, unless within two years after the cause of action shall have arisen.

## ARTICLE XII.

### GARNISHMENT.

SEC. 119. The clerks of the several districts, on the oath of any plaintiff to a suit, or in whose favor judgment may have been rendered by any court in a suit, that he has reasons to believe that any person has in his possession any money or property belonging to the defendant therein, and that he further believes that such defendant has not in his possession visible property sufficient to satisfy plaintiff's demands, shall issue a summons of garnishment, directed to the sheriff of the district wherein such garnisher may reside, commanding him to summon such person to be and appear at the time and place in the district designated, to answer on oath whether he has in his possession any money or property belonging to the defendant, and in what sum, and in what kind, or had at the time of the service of the garnishment. The garnishee, answering affirmatively, shall be required to retain such property or money, so held, in his possession until the termination of suit, or be answerable to plaintiff for the same, and be liable to damages for such loss as the plaintiff

may thereby sustain; but if judgment be had against the defendant, such property or money shall be delivered to the sheriff, who shall dispose of the same as the judgment of the court may require.

SEC. 120. Any person willfully failing or refusing to obey any summons of garnishment, as served upon him, shall be deemed guilty of a misdemeanor, and, upon conviction, be fined not less than twenty-five, nor exceeding one hundred dollars, and in default of payment, be imprisoned not less than thirty, nor exceeding ninety days, at the discretion of the court.

### ARTICLE XIII.

#### ATTACHMENTS.

SEC. 121. That it shall be lawful, whenever any person shall have a claim or debt against another, for such person to go before any of the judges or clerks, and make oath that he has such claim, or debt, and that he either has commenced suit upon the same, or that he is about to commence suit; also to make oath that he is apprehensive that the defendant is about to abscond, or that he has good reasons to apprehend that the defendant may dispose of the property claimed, or liable to satisfy such debt, so as to place it beyond the reach of law; and it shall be the duty of the judge or clerk, before whom such oath, in any case, may be made, to issue an attachment forthwith, to be placed in the hands of any lawful officer, whose duty it shall be to attach the property of

defendant, liable to satisfy the debt, as will satisfy the demand, and the same to safely keep, until authorized by law or the order or judgment of the court having jurisdiction of the suit,—having reference to such property,—to release the same, or serve an execution thereon ; unless the debtor, or defendant, or person out of whose possession the property shall have been sued, shall secure the claim or debt, by giving bond with sufficient security, personal or collateral, satisfactory to the sheriff, either for the forthcoming of the property at the final termination of the suit, or the payment of the alleged debt, in case the same be adjudged due ; in which event, the sheriff shall release the property attached to the defendant to use and take charge of during the pending of the suit.

SEC. 122. All property under attachment shall be considered in the legal possession of the sheriff holding such property under attachment ; and any person taking, secreting, making use or disposing of such property while so attached, without the permission of the sheriff, shall be deemed guilty of theft, and be punished accordingly.

SEC. 123. Should the defendant give bond, as above provided, and the plaintiff make complaint to the sheriff that the security upon such bond is insufficient, by which insufficiency the plaintiff should lose his remedy by attachment, or any part thereof, in such case, the sheriff shall be personally responsible to the plaintiff to the amount of the value of the property attached and not forthcoming, according to the terms of

the bond; and the sheriff, after satisfying the plaintiff as in this section provided, may have recourse to make himself secure against the principal and sureties of the bond, to the amount paid by him to the plaintiff.

SEC. 124. Any attachment, issued before the issuance of a summons in the suit, shall be annulled, and be of no effect or force, and the property, thereupon attached, shall be returned to the person out of whose possession it shall be sued, unless suit shall be instituted by the claimant or creditor within five days after the day upon which the attachment is issued, and notice of such failure to institute suit being received by the officer holding such attachment. And any person applying for and obtaining an attachment and not instituting suit within five days thereafter, as provided, shall be responsible to the amount of any damage done by the service of such attachment, to be recovered upon suit by the party injured.

SEC. 125 Whenever the property of any person shall be attached or levied upon, to secure the payment of the debt of another, the owner of such property, so attached or levied upon, shall have the right to go before the judge or clerk, where such attachment or execution may have issued, and establish his right to the same, after due notice shall have been given to the plaintiff in the case wherein the property in question has been made subject to attachment or levy, of the time, place, and object of such investigation. Such proof shall be taken in writing and filed in the office of the district clerk, and shall show that the property in

question does belong of right to claimant, and did rightfully belong to the claimant, or to the estate, or person, of whom, or which, the claimant is lawfully in charge, before the service of such attachment or execution; and whenever such proof is made to the satisfaction of the judge or clerk, it shall be his duty to give an order forthwith to the officer, having such property under attachment or levy, to deliver it to the owner thereof.

SEC. 126. No property belonging exclusively to the wife shall be taken to secure the payment of the debts of the husband, without her consent, nor shall any property separately belonging to the husband, be taken to pay the debts of his wife, without the consent of the husband, and property, belonging separately to either, attached or levied upon to secure the payment of the debts of the other, may be released as in other cases; *provided*, that where man and wife are living together and hold property jointly, such property shall be subject to the payment of debts contracted by either while so living together. And *provided, further*, that no property, acquired by a man and his wife while living together, shall be made the separate and individual property of the wife by transfer of the title, or any part thereof, to her from the husband, except a copy of such transfer be first filed in the office of the district clerk of the district where the parties reside.

SEC. 127. Any person who shall fraudulently, collusively, and wrongfully, set up a claim to the ownership of any property under attachment or

execution, with a view to release the same as provided above; or who shall willfully claim such property under and by virtue of any title, except lawful conveyance to him made for good or valuable consideration prior to the seizure of such property, then under attachment or execution, by authority of either writ, through and by which false and fraudulent claims, such property shall be released, shall be deemed guilty of a criminal misdemeanor, and, upon conviction, shall be fined in a sum double the amount of the value of the property so fraudulently claimed and released from attachment or execution, and shall also be imprisoned not less than three months, nor more than one year, at the discretion of the court.

#### ARTICLE XIV.

##### POSSESSION OF PROPERTY.

SEC. 128. Any person, having peaceable possession of private property obtained through lawful means, and claiming a limited or absolute right in the same, shall be held, in law, to have a prior right of possession thereto against all persons obtaining possession thereafter, until the right of such person shall expire, or be by him transferred to another for good or valuable consideration, or until his right shall be disputed and invalidated by due course of law. And any person, having a prior right of possession of any property to any other person, and the property being detained by the latter from the former without his voluntary consent, may recover such property upon suit for pos-

session merely, without regard to, or investigation had by the court of, other or higher title, either in plaintiff or defendant of such suit. But such person as plaintiff, may submit to the court the general question of right, involving the right of possession of the property, or be awarded possession of such property merely, as provided above, with the right accruing of answering as defendant in all suits involving the right, title, and interest of the parties to such property.

SEC. 129. Any lessee, borrower, agent or person, who may obtain temporary possession of any private property, for a definite time, or at will, by lawful contract, shall be estopped by such contract from claiming or defending continued possession of such property, through a title adverse to the terms of such contract, or through any right derived from a third party; but the court shall compel a restoration of such property, according to contract, with such actual and exemplary damages claimed, as may be just.

SEC. 130. Suits for the recovery of property shall be instituted against the person having the property in legal possession and control; but in any suit by a third party against any lessee or agent of another, holding property of another in his possession, in which suit the right of the principal in such property is mainly involved, such fact being brought to the notice of the court, at the calling of the case, by disclaimer of ownership on part of defendant, the court shall order the name of the principal to be placed upon the record as

party defendant in that suit, and judgment shall be rendered accordingly.

SEC. 131. Property shall be held to be in the legal possession and control of any person when in his actual possession, or in the actual possession of any person in the service or employment of such defendant temporarily to use or take charge thereof. When property consists of stock, the possession thereof shall be determined as provided by law.

## ARTICLE XV.

### GENERAL RULES.

SEC. 132. Each court shall have the right to make and enforce such regulations for the orderly transaction of business and the preservation of order in and about the court, during its sessions, as may be deemed necessary and proper, and which shall not be in violation of law; and for every contempt or disrespect offered, or obstruction of business by the improper conduct of individuals, the court may impose a fine on any such person so offending of not less than one, nor more than fifty dollars, at its discretion.

SEC. 133. When any court is organized at any regular term, the sheriff shall, at the bidding of the judge, call the parties to each case, in the order in which the cases shall be entered upon the docket, three several times, at intervals of not less than one hour between each calling; and all cases, not previously disposed of, shall be finally disposed of for that term

at the third calling, unless both parties consent otherwise; *provided*, that the parties to any suit, answering to their names at the first or second calling, shall then have the right to come to trial, if they so prefer.

SEC. 134. If at the third calling of a case, at any term, the plaintiff does not answer either in person or by attorney, no trial of that suit shall be had, but the suit shall be dismissed at plaintiff's costs.

SEC. 135. If at the third calling of any case, at any term, the defendant does not appear in person or by attorney, the court shall proceed to ascertain if the summons in the case has been duly served according to law, and if so, the absence of the defendant shall be taken as confession of judgment, and the court may, upon motion of plaintiff, render final judgment in such case accordingly.

SEC. 136. Motions to abate or dismiss a suit shall be made at the earliest practicable moment after the alleged cause shall exist therefor, and if not then made, the right of defendant to make such motion shall be considered waived.

SEC. 137. When a civil case is submitted to the court, upon a statement of facts by the parties, to which they both agree, or when a discovery of fact is not put in trial, but the parties differ only in respect of the meaning and construction of the law thereupon, it shall be the duty of the judge to interpret and apply the law for a settlement of the dispute between the parties, and

to render a decision accordingly, which decision may be appealed from, as in other cases.

SEC. 138. No suit shall be dismissed from the docket, or abated, on account of any formal defect or omission in the proceedings thereof, when such defect or omission is not the fault of the plaintiff, and the defendant is not injured thereby, or his rights jeopardized. But the court may remedy any such defect or omission by ordering such amendment as shall agree with the facts of the case.

SEC. 139. No cause shall be continued to the term following, except upon the oath of the party making the motion to continue that evidence material to the case is absent which he has used all lawful means and endeavors to obtain, and which a continuance will probably enable him to obtain. Each party may continue once, but no case shall be continued a third time, except by consent of parties.

SEC. 140. The following general rules of practice for the finding of issue shall be applied, as far as practicable, by the several circuit and district judges in the trial of civil suits:

SEC. 141. When the parties have pronounced themselves ready for trial, the allegations contained in the summons shall be read to the defendant, and the said defendant shall be required to admit or to deny the allegations in the order in which they are alleged. The answer of defendant to each allegation shall be distinctly recorded by the clerk in the proceedings, and no testimony shall be allowed in regard to any allegation

admitted, but such allegation shall be taken as proven, and the point at issue between the parties, shall be the facts alleged and denied.

SEC. 142. Any defendant may admit the allegations of plaintiff, in whole or in part, and set up his defense by the affirmation of other facts upon which he may rely to defeat plaintiff's claim, or any part thereof, if plaintiff's allegations are admitted. In which case the clerk shall record the facts admitted by defendant, and the plaintiff shall then be required to admit or deny the facts alleged by defendant, and the clerk shall record his answer in the proceedings of the case, and those admitted shall be taken as proven, and testimony shall be introduced only as to those denied.

SEC. 143. Should the plaintiff not choose to deny the allegations of defendant, and should desire to answer and avoid the same by another statement of facts on his side, supposed by him to be sufficient in law to avoid the defense set up, he may do so, and the defendant shall be required to admit or deny as before, and all matters denied shall be deemed and held as the issue between the parties, and those not denied, on one side or the other, shall be taken as proven, and testimony shall be introduced accordingly.

SEC. 144. Either party to a suit may, according to the principle involved in the three preceding rules, be permitted to admit the allegations of the other, in whole or in part, in the order in which the parties shall be required to admit or deny, and to allege new matter or facts in avoidance of the facts alleged by the

opposite party, and in support of, or against, the original demand; and when new matter is alleged, the opposite party shall be required to admit or deny as above; *provided*, that the facts, so alleged by either party, shall constitute a good cause in law of action or defense, as regards the original demand set forth in the summons. And if, upon demurrer by either party to the allegations of the other, it shall appear to the court that such allegations, if true, do not constitute good grounds in law for supporting or defending the claim demanded, no testimony shall be taken in the case, but the facts, admitted by either or both sides, shall constitute the evidence in the case, and the court shall proceed to give judgment, as required in the first section of this act. If the allegations contained in the summons are demurred to as insufficient in law, and the court approve such demurrer, the case shall be dismissed at plaintiff's costs.

SEC. 145. It shall be the duty of each circuit judge, to impartially inform, instruct and assist the parties to a suit in conforming to the rules above prescribed, when he shall deem it necessary for the due attainment of the object thereof, to-wit: the more speedy and certain discovery of the point of difference between the parties, the exclusion of irrelevant and immaterial testimony, and the more accurate and satisfactory dispensation of justice.

SEC. 146. When a cause is ready for hearing, and the issue defined as distinctly as practicable by the allegations and denials of the parties, as provided, the

party, holding the affirmative, or upon whom the burden of proof shall rest, shall be allowed to introduce his testimony in support of his allegations; and no testimony shall be admitted from such party by the court, except such as may be admissible to prove such allegations, according to the rules governing the admission of evidence that may be recognized by law, and by the courts. When the party, first presenting testimony, shall have closed, the opposite party shall be allowed the same right, with the same restrictions, to introduce pertinent and competent evidence in justification of his denial; *provided*, that such opposite party shall have the right to introduce evidence affecting the credibility of the witnesses and the testimony of the other side; which right shall be likewise allowed to the first party after the testimony in chief, on part of the negative or defense, shall have been closed.

SEC. 147. After the testimony in chief has been submitted by both parties, in affirmation or denial of the facts alleged respectively, the court may, upon motion, allow either party to introduce other testimony as to the credibility of the opposite witnesses or testimony, or in rebuttal of new matter material to the issue, lawfully brought to the consideration of the court in the course of such examination in chief.

SEC. 148. No suit shall be brought, nor any off-set to any suit be presented, upon a sworn account, except the articles or work, matter of such account, is usually matter of credit, and record thereof has been kept, with the date of each transaction by the creditor, as a neces-

sary way of doing business. And all sworn accounts or off-sets, submitted as evidence by the plaintiff or defendant, shall be copies from the original record or account, with the items and date of each item as charged, and the account, book or record, from which the sworn account purports to be a copy, shall be produced when called for by the opposite party, under the rule as provided in section 146, or may be, if not demanded, voluntarily submitted as corroborative evidence of the sworn account. And the court shall give judgment in reference to any sworn account submitted by plaintiff or defendant, as the weight of evidence shall appear to authorize.

SEC. 149. In all suits upon sworn accounts, the original record of the account having been produced, the opposite party may introduce and examine, as a witness, the party submitting a sworn account, in reference thereto.

## ARTICLE XVI.

### PLACES OF HOLDING COURTS.

SEC. 150. The following places are designated and fixed upon, for holding courts, viz:

In Sequoyah District, at the present court house.

" Canadian        "        "        "        "

" Illinois        "        "        "        "

" Flint        "        "        "        "

" Going Snake "        "        "        "        "

" Delaware        "        "        "        "

" Saline        "        "        "        "

" Coo-wee-skoo-wee        "        "        "        "

" Tahlequah District, in the town of Tahlequah.

## ARTICLE XVII.

## INTERPRETERS.

SEC. 151. In the trial of all causes, civil or criminal, by any of the courts of this Nation, when it may become necessary, for the proper understanding of the proceedings by the jury or the court, that an interpreter be appointed, the presiding judge may appoint a competent interpreter, who shall be sworn to accurately interpret, to the best of his ability, and who shall receive for such service, one dollar per day.

## ARTICLE XVIII.

## BONDS.

SEC. 152. All officers of this Nation from whom bonds are required by law, and all other persons who may be required by law to give bond to secure the payment of any tax, or to ensure the fulfillment of any duty, or the discharge of any trust committed to them by the national authority, to do, or to preserve, on the general behalf or interests of the people of this Nation, shall, except in cases expressly provided otherwise by law, file in the executive office the bond required, with sureties satisfactory to the Principal Chief. And upon failure of any officer, or such person, to comply with the conditions of any bond whatever, that may be given to secure or guard the general interests of the people of this Nation, or upon the report of such failure by any such national authority, or by the Principal Chief, to the solicitor of the district wherein such bonded officer

or person may reside, the latter officer shall, in the name of the national treasurer, enter suit upon such bond, in the manner and form prescribed for other civil suits at law, and such solicitor shall be entitled to, and receive, as his fees for entering and prosecuting any such suit in behalf of the Nation, to final judgment, ten per cent. of all collections made upon executions obtained thereon.

SEC. 153. All sureties to bonds required to be given by law, shall be required, by the officer to whose satisfaction they shall be given, to state, under oath, before their acceptance as bondsmen, the description and value of the property owned by them respectively, and subject to execution in case of forfeiture of bond; and no surety shall be accepted for an amount above that to which he shall be able to qualify, as herein provided.

## ARTICLE XIX.

### WRITS OF EJECTMENT.

SEC. 154. Any person who may take or be in possession of any improvement without consent of the claimant or owner, such improvement not being abandoned, and a part of the public domain, and any person who shall come into possession of or now be possessed of any farm, residence or improvement of any kind, to hold the same for a limited time by virtue of an agreement made with the owner or prior legal possessor thereof, and who shall fail or refuse to vacate the premises with his effects whenever the owner or person

with whom such agreement shall have been made shall demand possession thereof according to the terms of such agreement, such owner or party to said agreement shall have the right to go before the Clerk of the District and make oath to the facts that he is a lawful owner of such improvement, that such improvement is held by an occupant against such owners will and consent, and either without any agreement with such owner in the first place, or with his consent to the occupancy thereof for a limited specified time, but which time has expired, and such occupant continues in unlawful possession though possession has been demanded of him by the owner. Whereupon the clerk shall issue a writ commanding the sheriff of the district to summarily eject such unlawful occupant from the premises in question, and to place the person making said affidavit in possession, which writ the sheriff shall execute and return without delay. This act shall be held to apply to all persons, lawful residents or not, of this Nation, who may be, or come, into possession of any farm, residence, or improvement in this Nation, either without contract with a citizen, or by and through a contract made to hold the same for a limited time. (December 4, 1877.)

# CHAPTER IV.

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## AN ACT IN RELATION TO CRIMES AND MISDEMEANORS.

ART. I.	Treason and Conspiracy.	ART. XIX.	Gambling.
II.	Murder and Manslaughter.	XX.	Marking and Branding Stock.
III.	Excusable and Justifiable Homicide.	XXI.	Offenses against Health.
IV.	Assault, with Intent to Kill.	XXII.	Disturbing Public Assemblies.
V.	Burglary, Robbery and Larceny.	XXIII.	Malicious Trespassing.
VI.	Rape.	XXIV.	False Pretense.
VII.	Mayhem.	XXV.	Burning Prairie or Woods.
VIII.	Arson.	XXVI.	Weights and Measures.
IX.	Perjury.	XXVII.	Betting on Elections.
X.	Abortion.	XXVIII.	Obstructing Public Roads.
XI.	Poisoning.	XXIX.	Destroying Pecan and other Trees.
XII.	Bribery.	XXX.	Principals and Accessories.
XIII.	Embezzlement.	XXXI.	Damages.
XIV.	Forgery and Counterfeiting.	XXXII.	Sundays, Violation of.
XV.	Escape of Prisoners.	XXXIII.	Slander or Libel.
XVI.	Guards.		
XVII.	Introduction and Vending of Liquors.		
XVIII.	Houses of Ill-fame.		

## ARTICLE I.

### TREASON AND CONSPIRACY.

SEC. 1. Every person who shall, by force of arms, attempt to subvert the government of the Cherokee Nation, or who shall in like manner resist the enforcement of its laws; and every person who shall, contrary to the will and consent of the National Council, enter into a treaty with the government of the United States, or with any department or officer thereof, or with any State of the United States, or officer thereof, and agree to cede, sell, exchange, or dispose of, in any manner,

the lands belonging to the Cherokees, or any part or portion thereof, shall be deemed guilty of *treason*, and, on conviction thereof, suffer death by hanging.

SEC. 2. Every person who shall, without the authority of the National Council, enter into and make a treaty with the government of the United States, or with any department or officer thereof, or with any State of the United States, or officer thereof, for any purpose, other than the cession of lands, shall be deemed guilty of *treason*, and, on conviction thereof, be punished by imprisonment for not less than ten years.

SEC. 3. Every person who shall conspire to subvert the government of this Nation, or shall combine to resist the enforcement of the laws thereof, shall be deemed guilty of a felony, and, upon conviction, suffer imprisonment not less than one year, nor exceeding ten years.

SEC. 4. No treaty shall be binding upon the Cherokee Nation, which shall not be ratified by the National Council, and approved by the Principal Chief.

## ARTICLE II.

### MURDER AND MANSLAUGHTER.

SEC. 5. Every killing of a human being without the authority of law, by shooting, stabbing, poisoning, or by other means, or in any other manner, is either murder, or manslaughter in the first or second degree, or excusable or justifiable homicide, according to the intention of the person perpetrating the same, and the facts and circumstances connected with each case.

SEC. 6. Such killing, when done with malice aforethought, or from premeditated design to effect the death of any person, though some other than the one intended should be killed; or when perpetrated by any act not in self-defense, imminently dangerous to others, and evincing a reckless or depraved mind, regardless of human life, although without any previous design to effect the death of any particular individual; or when done by any person engaged in a duel; or when done in the perpetration of the crime of rape, arson, burglary or robbery, shall be murder, and every person convicted thereof shall suffer death by hanging.

SEC. 7. Every killing of a human being, when done without design to effect death, by the act, procurement or culpable negligence of any person, while such person is engaged in the perpetration of any crime, other than rape, arson, burglary or robbery, shall be manslaughter in the first degree, and every person convicted thereof, shall be imprisoned for a term of not less than "two years, nor exceeding ten years," (Nov. 26th, 1876.) at the discretion of the court.

SEC. 8. Every person, who shall deliberately assist another in the commission of self-murder; or who shall willfully kill any unborn child, by the infliction of an injury, by violence or otherwise, which would be murder, manslaughter or suicide, if it resulted in the death of the mother, shall be deemed guilty of manslaughter in the first degree, and, upon conviction thereof, be imprisoned, not less than "two, nor exceeding ten years." (Nov. 26th, 1876.)

SEC. 9. Every person who shall be present at, and act as second or medical adviser in any duel or prize fight, which shall result in the death of either principal, shall be deemed guilty of manslaughter in the second degree, and, upon conviction, shall be imprisoned, not less than "one year, nor exceeding five years." (Nov. 26th, 1876.)

SEC. 10. Every person who shall administer any drug, medicine, or other substance to, or shall use any instrument or other means, or perform any operation, upon any pregnant woman, for the purpose of destroying the child, unless advised by a physician or mid-wife as necessary to save the life of the mother, whereby the life of the child or mother is destroyed, shall be deemed guilty of manslaughter in the second degree, and, upon conviction, shall be imprisoned not less than "one, nor exceeding five years." (Nov. 26th 1876.)

SEC. 11. Any person who shall kill another without previous design to effect death, while in a heat of passion, and not in self-defense, but in a cruel and unusual manner; or any person who shall unnecessarily kill another, while such other is attempting to commit any unlawful act, or after such attempt shall have failed, shall be deemed guilty of manslaughter in the second degree, and, upon conviction, shall be imprisoned not less than "one, nor exceeding five years." (Nov. 26th, 1876.)

SEC. 12. Every person who shall kill another, in a heat of passion, or in any sudden affray, without design to effect death, but not in self-defense, nor in a

cruel and unusual manner, shall be deemed guilty of manslaughter in the second degree, and, upon conviction, be imprisoned not more than "one year," (Nov. 26th, 1876,) at the discretion of the court.

SEC. 13. Every person navigating any ferry or other boat, for gain, who shall willfully or negligently overload said boat, whereby the boat shall sink or be upset, or any person be thrown or knocked overboard, and thereby any person shall be drowned or otherwise killed; and every captain, engineer or other person, in charge of any steamboat, or other steam power, who shall willfully or by neglect, cause any explosion or breakage of boiler, or steam apparatus or fixture, whereby any person shall be killed, shall be deemed guilty of manslaughter in the second degree, and, upon conviction, shall be imprisoned not exceeding "two" (Nov. 26th, 1876,) years, nor less than one year, at the discretion of the court.

SEC. 14. Every physician while in a state of intoxication, who shall, without design to effect death, administer any poison, drug or medicine, or perform any operation, whereby the death of another is effected, and every druggist or other person acting as such, who shall, by neglect or ignorance, administer any poison, medicine or drug, which shall cause the death of any person; and every owner of any mischievous animal, knowing its propensities, who shall not use due care in keeping it, and such animal kill any person outside the inclosure of such owner; and every person who shall in any manner kill another, otherwise than herein-before

specified, and not in self-defense, and such killing not being excusable or justifiable, shall be deemed guilty of manslaughter in the second degree, and, upon conviction, shall be imprisoned, not exceeding "two years," (Nov. 26th, 1876,) nor less than one year, at the discretion of the court.

### ARTICLE III.

#### EXCUSABLE AND JUSTIFIABLE HOMICIDE.

SEC. 15. Every killing of a human being is hereby declared to be excusable or justifiable in the following cases, to-wit: Such killing is excusable when done by accident or misfortune, in lawfully correcting a child or ward, or in doing any other lawful act, by lawful means, with usual and ordinary caution and without any unlawful intent, or purpose to effect death; or by accident or misfortune, in the heat of passion, upon any sudden and sufficient provocation; or upon a sudden affray, without undue advantage being taken, and without the use of any dangerous weapon, and not done in a cruel and unusual manner.

SEC. 16. Every killing of a human being is justifiable when necessarily done by any public officer, or those acting under his authority, in enforcing obedience to a process from any legal tribunal; or when done in overcoming actual resistance to the execution of such process; or when necessarily done in the discharge of any duty required by law; or when done by any person in resisting the attempt of another to kill such person, or to commit any felony upon such person, or

upon, or in any dwelling house, in which such person may be; or when committed in the lawful defense of such person, or in the defense of his or her husband, wife, child, parent, ward, guardian, relative or friend, when there shall be a reasonable ground to apprehend a design to commit some felony, or do some serious bodily injury, and there shall be reasonable cause for believing that there is imminent danger of such design being accomplished; or when necessarily done in attempting, by lawful ways and means, to quell any tumult, or riotous conduct; or in lawfully keeping and preserving the peace.

#### ARTICLE IV.

##### ASSAULT WITH INTENT TO KILL.

SEC. 17. Every person, who shall be convicted of shooting at another, or of attempting to discharge any fire arms at another; or of any assault, or assault and battery, upon another, with any deadly weapon, or other means likely to produce death, with intent to kill and murder, or to maim, disfigure, or rob another; or in the attempt to commit murder, manslaughter, burglary, or other felony; or in resisting the execution of any legal process, or any officer, or private person, lawfully attempting to arrest him, her, or any other person, shall be deemed guilty of felony, and shall be imprisoned not less than three years, nor exceeding ten years.

SEC. 18. Every person, who shall assault and rob, or take away, by force or intimidation, from the person of another, any money, or other property, shall be

deemed guilty of felony, and, upon conviction, be imprisoned not less than three years, nor exceeding ten years, and be fined in double the amount of damage sustained by the injured party.

## ARTICLE V.

### BURGLARY, ROBBERY, LARCENY.

SEC. 19. Every person, being armed with a dangerous weapon, or so arming himself after entering, who shall, with intent to commit the crime of murder, rape, robbery, or other felony, break into or unlawfully enter, in the night time, any dwelling, store, or other house, then being lawfully occupied by any person, shall be deemed guilty of a felony, and, upon conviction, be imprisoned not less than five years, nor more than fifteen years.

SEC. 20. Every person, being not armed, nor arming himself after entering, who shall, with intent to commit the crime of murder, rape, robbery, or other felony, break into, or unlawfully enter, in the night time, any dwelling, store, or other house, then being lawfully occupied by any person, shall be deemed guilty of a felony, and, upon conviction, be imprisoned not less than one, nor exceeding ten years.

SEC. 21. Every person who shall, in the day time, break into, or unlawfully enter any dwelling, store, or other house; at the time being occupied, with intent to commit the crime of murder, rape, robbery, or other felony, shall be deemed guilty of a felony, and upon

conviction, shall be imprisoned, not less than one year, nor exceeding five years.

SEC. 22. Every person who shall willfully take, steal, or maliciously destroy, any goods, wares, merchandise, promissory note, national warrant, certificate, money, or other property, one hundred dollars or more in value, shall be deemed guilty of felony, and, upon conviction, be imprisoned for any term, not less than one year, nor exceeding ten years, and be fined in a sum double the amount of damage sustained by the injured party, for his benefit.

SEC. 23. Every person who shall willfully take or steal, or maliciously destroy, any goods, wares, merchandise, promissory note, money, national warrant, certificate, or other property, less than one hundred dollars in value, shall, upon conviction, be imprisoned for any term, less than one year, at the discretion of the court, and be fined in double the amount of damage sustained by the injured party, for his benefit.

SEC. 24. Every person who shall steal and carry away, or fraudulently withdraw, conceal, or destroy, or take away any record, paper, or proceeding of a court, or of the executive or legislative department of this Nation, or any paper or proceeding, filed with any officer, or in any public office, without reference to the value of the paper, record, or proceeding, so taken, stolen, destroyed, withdrawn, or concealed, shall be deemed guilty of felony, and, upon conviction thereof, shall be fined in a sum double the amount of the injury

sustained by the party injured, and be imprisoned not less than one year, nor more than five years, at the discretion of the court.

. SEC. 25. Every person who shall willfully take or steal, a horse, mule, ass, or cow, shall be deemed guilty of a felony, and, upon conviction, be imprisoned not less than three years, nor more than seven years, and be fined for the benefit of the injured party, in a sum double the amount of loss or damage sustained. And every person found a second time guilty of a violation of this section, shall be imprisoned not less than seven years, nor exceeding ten years, and be fined as above.

SEC. 26. Every person who shall willfully take or steal, any hog, sheep, goat, or other domestic animal of like value, or wild animal kept in an enclosure, shall be deemed guilty of felony, and, upon conviction, be imprisoned not less than one year, nor more than three years. And every person, found a second time guilty of a violation of the provisions of this section, shall be imprisoned not less than three years, nor exceeding seven years, and be compelled, in every instance, to make restitution to the injured party in a sum double the amount of injury sustained.

SEC. 27. Every person who shall willfully kill, maim, or disfigure, any horse, cow, hog, or other beast of another, or shall willfully administer any poison to such beast; or shall willfully or maliciously destroy the personal property of another, in any manner, or by any

means, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be imprisoned for any period less than one year, at the discretion of the court, and be fined in a sum double the amount of the damage sustained, for the benefit of the injured party. And every person, found a second time guilty of a violation of the provisions of this section, shall be deemed a felon, and shall be imprisoned not less than three years, nor more than seven years, and be fined in a sum double the amount of the injury sustained, for the benefit of the injured party.

## ARTICLE VI.

## RAPE.

SEC. 28. Every person, who shall ravish and carnally know any female not under twelve years of age by force and against her will, or by administering to her any substance; or liquor, which shall produce such stupor or imbecility of mind, or weakness of body, as will prevent effectual resistance; or shall attempt to ravish, or carnally know any female child less than twelve years of age, either with or without her consent, shall be deemed guilty of a felony, and, upon conviction, shall suffer imprisonment, for a term not exceeding twenty-five years, nor less than ten years; *provided, however,* if the female be, at the time of the commission of the offense, a common prostitute, she shall be required to make immediate complaint to some public officer, or other respectable person; and if, on the trial of such offense, she is proven to be a common

prostitute, then the court may imprison the offender, upon conviction, for any term not less than one year, nor exceeding ten years.

SEC. 29. Every person who shall ravish and carnally know any female child, under the age of twelve years, either with or without her consent, shall, upon conviction, suffer death by hanging; *provided*, that the Principal Chief, by and with the advice and consent of the executive council, may, if the circumstances of the case seem to warrant, commute the sentence to imprisonment for life.

## ARTICLE VII.

### MAYHEM.

SEC. 30. Every person, who shall, with malicious intent to maim or disfigure, cut out or maim the tongue, put out or destroy an eye, cut or tear off an ear, slit or mutilate the nose or lip, or cut off or disable any member of any person; and every person, privy to such intent, who shall aid in the commission of such offense, shall be deemed guilty of a felony, and upon conviction, shall be imprisoned not exceeding ten years, nor less than one year, and be fined, for the benefit of the injured party, in any sum not less than one hundred dollars, at the discretion of the court.

## ARTICLE VIII.

### ARSON.

SEC. 31. Every person, who shall willfully set fire

to, and burn, any dwelling, or other house, occupied by any person, whereby the life of such person shall be destroyed, shall, on conviction, be deemed guilty of manslaughter in the first degree, and suffer death by hanging; *provided, however,* the Principal Chief, by and with the advice and consent of the executive council, may, if the facts and circumstances of the case seem to warrant, commute the punishment to imprisonment for life.

SEC. 32. Every person, who shall willfully set fire to, and burn, any dwelling house, mill, school-house, church, barn, or other building, whether such person be the owner or not, shall be deemed guilty of a felony, and, upon conviction, be imprisoned for a term not less than five years, nor exceeding fifteen years, and fined in a sum double the amount of damage sustained, for the benefit of any other person injured.

SEC 33. Every person, who shall willfully set fire to and burn, any bridge, or any goods, wares or merchandise, or any chattels of any kind; or any stack, bale, or heap of hay, or field of grain, cotton, or other produce, standing or growing in any field; or any orchard, or nursery, or grove of trees, not his own, or any fence around any farm, field, or inclosure, not his own; or any cord wood, not his own; or any parcel of boards, or lumber; or shall willfully set fire to, and burn, any property not herein specially named, shall be deemed guilty of a felony, and, upon conviction, shall be imprisoned not less than one year, nor exceeding five years; and be fined for the benefit of the injured

party, in a sum double the amount of damage sustained by the injured party.

## ARTICLE IX.

### PERJURY.

SEC. 34. Every person, of whom an oath or affirmation may be required by law, who shall, before any court, or officer, authorized by law to administer oaths, willfully swear or affirm falsely in regard to any material matter or thing, respecting which such oath or affirmation is required, shall be deemed guilty of a felony, and, upon conviction, suffer imprisonment for not less than one year, nor more than five years; *provided, however,* if the offense be committed in the trial of an indictment, for a crime punishable with death, or imprisonment for life, the offender shall be imprisoned for not less than five years, nor exceeding fifteen years. And every person, who shall procure another to commit the crime of perjury, shall be deemed guilty of a felony, and be imprisoned as herein above provided.

SEC. 35. No person, convicted of perjury or subordination of perjury, shall ever afterwards be allowed to give evidence before the courts of this Nation.

## ARTICLE X.

### ABORTION.

SEC. 36. Every pregnant woman who shall willfully take any medicine, drug, or other thing, or who shall

use or employ any instrument, or other means, with intent to produce abortion, or miscarriage,—whether abortion or miscarriage be produced or not,—and every other person who shall, with such intent, administer to, prescribe for, advise, or procure any such woman to take anything, or employ anything for such purpose, shall, upon conviction, be deemed guilty of a felony, and be imprisoned not less than one year, nor exceeding five years.

SEC. 37. Every woman, who shall conceal the death of any issue of her body, which, if born alive, would be a bastard, so that it may not be known, whether such issue was born alive or not, or whether it was not murdered, shall be deemed guilty of a felony, and, upon conviction, be imprisoned not less than one year, nor exceeding five years.

## ARTICLE XI.

### POISONING.

SEC. 38. Every person who shall attempt to commit the crime of murder, or attempt to injure another by using any poison commingled with any food, drink, or medicine, or in any clandestine manner, shall be deemed guilty of a felony, and, upon conviction, suffer imprisonment for a term not less than one year, and not exceeding ten years, and be fined to the amount of damages sustained by the party injured, for the benefit of such party.

## ARTICLE XII.

## BRIBERY.

SEC. 39. Every person, who shall corrupt any witness, guard, or juror, or any executive, legislative or judicial officer, or other person holding any office, or appointment of honor, profit or trust, under the government of this Nation, by giving, offering, or promising, any gift, gratuity, or consideration whatever, present or prospective, either before or after such person may qualify, with intent to influence his act, vote, opinion, decision or judgment, in any matter, cause, question, or proceeding, which may then be pending, or may, by law, come or be brought before him for his official action, shall be deemed guilty of felony, and, upon conviction, be imprisoned not less than one year, nor more than five years. And every witness, juror, or guard, or executive, legislative, or judicial officer, or person holding any office, or appointment of honor, profit or trust, under the government of this Nation, who shall corruptly accept any gift, reward or gratuity, touching any question, cause, proceeding or appointment, which may come before him for his official action, shall be deemed guilty of felony, and, upon conviction, be imprisoned not less than five years nor more than ten years.

## ARTICLE XIII.

## EMBEZZLEMENT.

SEC. 40. Every attorney, officer, agent, clerk, or employee of any company or person, or

every receiving, forwarding and commission merchant, or every miller, having in charge any moneys, goods, wares, grain, or other produce, or property of another, who shall fraudulently embezzle, make way with, or appropriate to his or her own use, without the consent of the owner, the whole or any part thereof, and shall fail or refuse, on demand, to make full restitution in kind, or in accordance with the terms of agreement, shall be deemed guilty of a misdemeanor, and, upon conviction, be imprisoned for any term less than one year, and be fined in a sum double the amount of damages, for the benefit of the party injured.

SEC. 41. Every person holding an office, or appointment of honor, profit or trust, who is, or may be intrusted with, or who is, or may be required to receive, and pay over, any moneys or other dues, received in the discharge of his official duties, and belonging to the Nation, shall be required to pay over, in kind, whether it be, gold, silver, United States paper currency, national warrants, or certificates, or other consideration, and shall not set up any claim as an off-set. And every person, who holds any office, or appointment of honor, profit or trust, under the government of this Nation, and who shall violate the provisions of this section, shall be deemed guilty of a misdemeanor, and be subject to suspension from office, and impeachment, and removal, and disqualification; and, upon conviction, either before or after impeachment before the courts of this Nation, shall be fined in a sum not less than five

hundred dollars, nor more than one thousand dollars; and, in default of payment, be imprisoned for any term less than one year, and exceeding six months, at the discretion of the court; *provided*, every receiving officer, who shall not within thirty days after notification of such delinquency, or within thirty days after the time required by law, report such offender to the Principal Chief for suspension from office, shall be deemed "*particeps criminis*," and, upon conviction, be subject to like punishment as the principal.

SEC. 42. Every person holding an office, or appointment of honor, trust or profit, who is, or ~~may~~ be intrusted with the collection, safe-keeping, receipt, transfer, or disbursement, of any tax, rents, revenue, moneys, fines, incomes, or securities, and shall convert the whole, or any part thereof, to his own use, or shall, without authority of law, loan, either with or without interest, any part thereof, shall be deemed guilty of a felony, and, upon conviction, be imprisoned not less than five years, nor exceeding fifteen years.

## ARTICLE XIV.

### FORGERY AND COUNTERFEITING.

SEC. 43. Every person who shall falsely make, alter, forge, or counterfeit any national warrant, due bill, or certificate, or any order, note of hand, draft, power of attorney, will or deed, or any court or other public record, with intent to defraud, shall be deemed guilty of a felony, and, upon conviction, be imprisoned not less than one year, nor exceeding three years;

*provided*, if the person so convicted, shall have been, at the time the offense was committed, an officer of the Nation, or of any corporation created by law, he shall be imprisoned not less than three years, nor exceeding seven years. And in every case, the offender, upon conviction, shall be fined for the benefit of the party injured, in double the amount of damage sustained.

## ARTICLE XV.

### ESCAPE OF PRISONERS.

SEC. 44. Every person, being unarmed, who shall aid or assist any prisoner in escaping from any jail or prison, or from the custody of any sheriff or guard, shall be deemed guilty of a misdemeanor, and, upon conviction, be imprisoned, for any term less than one year, and exceeding six months.

SEC. 45. Every person, being armed with a dangerous weapon, who shall forcibly aid in the escape, or rescue of any prisoner from any jail or prison, or from the custody of any sheriff or guard, or shall attempt to so aid the escape or rescue of such prisoner, shall be deemed guilty of a felony, and, upon conviction, be imprisoned, not less than one year, nor more than five years.

SEC. 46. Every prison keeper, jailor, sheriff, or guard, who shall voluntarily permit the escape of any prisoner, who has been placed in his safe keeping, shall, upon conviction, be deemed guilty of a felony,

and be imprisoned not less than one year, nor more than five years; and if such prisoner be convicted of, or charged with, any offense punishable with death or imprisonment for life, the prison keeper, jailor, sheriff, or guard, shall be imprisoned, not less than five years, nor more than fifteen years.

SEC. 47. Every officer, authorized to serve processes, who shall willfully and corruptly refuse to execute any lawful process to him directed, and requiring him to arrest and confine any person convicted of, or charged with, any criminal offense; or shall willfully and corruptly omit or neglect to execute such process, whereby such person shall escape and go at large; or shall willfully and corruptly refuse to receive into his custody any person committed thereto on lawful process, shall be deemed guilty of a misdemeanor, and, upon conviction, be imprisoned for any term less than one year, and not less than six months, or fined not less than two hundred dollars, nor more than one thousand dollars, or both, at the discretion of the court.

## ARTICLE XVI.

### GUARDS.

SEC. 48. Every person, being summoned in the name of the Cherokee Nation, by any sheriff or other lawful officer, who shall refuse or neglect to aid such officer in the execution of the duties of his office, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not less than fifty dollars, and not

exceeding two hundred and fifty dollars. And no property shall be exempt from the payment of such fine, improvements excepted; *provided*, every person holding an office, or appointment of honor, profit or trust, under the government of this Nation; every officiating minister of the gospel, practicing physician, lawyer, public ferry man, carrier, school teacher, (during term time,) and every person sixty-five years of age, and every minor, shall be exempt from service as guard, excepting when called upon to make immediate arrests, or to prevent the rescue of prisoners, or to quell any riot or tumult, or in the preservation of peace.

## ARTICLE XVII.

### INTRODUCTION AND VENDING OF LIQUORS.

SEC. 49. The introduction, and vending of ardent spirits in this Nation shall be unlawful; and any person, or persons who shall introduce, vend, or in any other manner dispose of any intoxicating liquors, are prohibited under the penalty of having the same wasted or destroyed by any lawful officer, or person authorized by the sheriff for that purpose, and the sheriffs, and other authorized persons of this Nation, while in search of spirituous liquors, are authorized to put on oath such persons as they may deem fit and to exact from them any information that may be of service to them in searching for ardent spirits, and also to procure search warrants authorizing the entering and examining of any

house when there is good reason for believing that spirituous liquors are therein concealed.

SEC. 50. The sheriffs of the several districts be, and they are hereby authorized to summons, one or more persons, as might be absolutely necessary, to assist in the wasting of spirituous liquors, should resistance be offered to them while in the discharge of this duty.

SEC. 51. All persons introducing ardent spirits of any kind within the limits of this Nation, or trading in the same, shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined in any sum not less than fifty dollars, nor exceeding one hundred dollars, or in default of payment shall be imprisoned in the national prison, for any term not less than six months, nor exceeding one year; *provided*, That one fourth of the fine so collected shall go to the sheriff, one fourth to the solicitor of the district, in which the same may be collected, and the remaining one half, to the national treasury. This act shall not be so construed, as to prohibit the introduction, and use by licensed physicians for medical purposes of alcohol, or other spirits.  
(Nov. 29th. 1880,)

## ARTICLE XVIII.

### HOUSES OF ILL FAME.

SEC. 52. Every person, who shall set up and keep house, room or place, resorted to for the purpose of prostitution of the sexes; or every person, who shall

knowingly rent, lease, or in any other manner, permit the use of his house for such purpose, or every woman who shall be found therein as a prostitute, or every person who superintends such house, or may be therein employed, shall be deemed guilty of a misdemeanor, and, upon conviction, be imprisoned for any term less than one year, or be fined in any sum of not less than ten dollars, nor more than two hundred and fifty dollars, or be both fined and imprisoned, at the discretion of the court.

SEC. 53. Every person, after having been once convicted, who shall persist in keeping a disorderly house, for the purpose of gambling, vending of ardent spirits, debauchery, assignation, or the prostitution of the sexes, to the annoyance of society, shall be deemed incorrigible, and, besides the penalties, shall be deemed a common nuisance, and to have forfeited the right of residence in such place; and the citizens of such place, or vicinage, may, at their option, eject such person, and, if necessary, thoroughly destroy such place of vice, in such manner as they may choose, without endangering the property of others, or the lives of the inmates.

## ARTICLE XIX.

### GAMBLING.

SEC. 54. Every person who shall, at any time or in any place, play at any game for gain with cards, dice, or any device which may be used or adapted to

playing any game of chance or hazard, or shall bet on the hands or sides of those who do play, shall be deemed guilty of a misdemeanor, and shall be fined, in a sum not less than ten dollars, nor exceeding one hundred dollars.

SEC. 55. Every person who shall set up, or keep any house or room, or place, either private or public, for the purpose of gambling, and shall induce, entice, or permit any person therein to bet at any game of faro, roulette, or other game whatever, or to play at any game of cards, dice, or other device, for gain, shall be deemed guilty of a misdemeanor, and, upon conviction, be fined in any sum, not less than fifty dollars, nor exceeding five hundred dollars. And no property, improvements excepted, shall be exempted from the payment of fines imposed under this section.

SEC. 56. All debts incurred at any game of chance, of whatsoever name, or upon any horse race, election, or cock fight, or sport, or wager, or for the repayment of money, or other thing of value, lent or advanced at the time of any game, play, election, bet, or wager, for the purpose of being laid, betted, staked or wagered, shall be void, and of no effect. And every person who may have lost at any game of chance, or otherwise as herein set forth, and paid over to another any money, or other valuable thing, may, at any time within six months after such loss or payment, sue for and recover the same. Suits for the recovery of money or other valuable things, so lost and paid over, may, within one year be brought by the husband, wife, or legal repre-

sentative of the loser, for the benefit of his or her family or heirs. And the defendants in such suits, may be required to answer on oath all questions in relation to the recovery of the money, or other valuable thing specified in the complaint, and thereafter be exempted from all further prosecution of the case

## ARTICLE XX.

### MARKING AND BRANDING STOCK.

SEC. 57. Every person who shall willfully and knowingly, mark or brand any animal, the property of another, with a mark or brand not that of the owner, without the consent of the owner, or authority of law; or shall knowingly alter or deface the mark or brand of any animal, the property of another, without his consent, shall be deemed guilty of a felony, and, upon conviction, be imprisoned not less than one year, nor exceeding three years; *provided*, any person, found a second time guilty of a violation of the provisions of this section, shall be imprisoned not less than three years, nor more than seven years.

## ARTICLE XXI.

### OFFENSES AGAINST HEALTH.

SEC. 58. Every person who shall fraudulently adulterate any substance intended for food, or any fluid intended for drink, or any drug or medicine, in such manner as to render it injurious to health; or who shall

knowingly sell any diseased, corrupted, or unwholesome provisions, whether for food or drink, or such adulterated drugs or medicines, without making the same fully known to the buyer; or every druggist, or other person, who shall sell and deliver any arsenic, strychnine, or other active poison, without having the word "*poison*," and the true name thereof in English written or printed thereon, in plain letters, upon a label attached to the vial, box, or parcel containing the same, shall be deemed guilty of a misdemeanor, and upon conviction, be fined in a sum not less than one hundred dollars, nor exceeding five hundred dollars, or be imprisoned for any term less than six months, or by both, in the discretion of the court.

SEC. 59. Every physician, apothecary, druggist, or other person, who shall, in a state of intoxication, or by neglect or carelessness, prescribe or administer any active poison, as a medicine, to another, thereby endangering the life of such person, shall be deemed guilty of a misdemeanor, and, upon conviction, be imprisoned for any term less than one year, or be fined in any sum not less than one hundred dollars, and not exceeding one thousand dollars, or be both fined and imprisoned, at the discretion of the court.

## ARTICLE XXII.

### DISTURBING PUBLIC ASSEMBLIES.

SEC. 60. Every person who shall willfully annoy, by word or deed, or in any manner disturb any school,

religious, political, or social public meeting, lawfully assembled, shall be deemed guilty of a misdemeanor, and, upon conviction, be fined not less than twenty-five dollars, nor exceeding one hundred dollars, and in default of payment of such fine, be imprisoned not less than thirty days, nor more than ninety days; *provided*, if the offender be at the time, in a state of intoxication, or be armed with a dangerous weapon, he shall be imprisoned not less than six months, and less than one year, at the discretion of the court; *provided, further*, that the members of every religious, political and social public meeting, when lawfully assembled, be authorized to adopt such measures for the peace and harmony of their meeting, by the suppression of the sale and indulgence in the use of intoxicating drinks, and for the preservation of the peace, as may seem to them most proper and best suited to that purpose, and said assembly, or the individual members thereof, shall not be responsible for any damages suffered by persons, in the exercise of the right herein granted.

SEC. 61. Every person who shall, during the holding of any camp or field meeting, for religious purposes, and within one mile of the place of holding such meeting, peddle or sell any goods, wares or merchandise, provisions or refreshments, without permission from the persons having charge of such meeting, or shall practice or engage in any kind of gambling, or horse racing, or exhibit any show or play, shall be deemed guilty of a misdemeanor, and, upon conviction, be fined not less than twenty-five

dollars, nor exceeding one hundred dollars, and in default of payment, be imprisoned, not less than ten, nor exceeding thirty days; *provided*, that any person, having his regular and usual place of business within such limits, shall not be required to suspend his business.

### ARTICLE XXIII.

#### MALICIOUS TRESPASSING.

SEC. 62. Every person who shall willfully and maliciously enter upon any field, garden, orchard, or other lands of another, and commit any trespass therein, by stealing, willfully taking, or destroying any grain, fruits, vegetables, or other product of the soil, or by destroying or injuring any vine, plant, shrub, fruit or other tree, not his own, standing or growing for shade, ornament or other useful purpose, upon the premises of another, or upon any public grounds or park, or by breaking, or throwing down, or opening, any gate, bars, or fence enclosing lands not his own, or by marring, defacing, or otherwise injuring any building not his own, or by burning, breaking, or otherwise destroying any railing, enclosure, or monument, erected in memory of the dead, shall be deemed guilty of a misdemeanor, and, upon conviction, be imprisoned for any term less than one year, at the discretion of the court, and be fined in double the amount of damage done, for the benefit of the injured party.

## ARTICLE XXIV.

## FALSE PRETENSE.

SEC. 63. Every person who shall designedly, and by false pretense, and with intent to defraud, or obtain from, another, any money, horse, mule, goods, wares, or merchandise, or other property whatsoever; or shall obtain, with such intent, the signature of another to any instrument of writing,—the false making whereof would be forgery,—shall be deemed guilty of a felony, and, upon conviction, shall be imprisoned not less than one year, nor more than five years, and be fined for the benefit of the injured party in a sum double the amount of damage sustained.

## ARTICLE XXV.

## BURNING PRAIRIE OR WOODS.

SEC. 64. Every person who shall, between the first day of July and the first day of April, willfully set fire to, and burn any prairie or woodland, not within his own enclosure, shall be deemed guilty of a misdemeanor, and shall, upon conviction, be fined not less than twenty-five, nor exceeding one hundred dollars, or, in default of payment, be imprisoned not exceeding thirty days; *provided*, however, if the house, fencing, hay, grain, or other property of another be thereby injured or destroyed, the offender shall be liable to the owner of such property, in a sum double the value of the

property injured or destroyed; and if payment of such damage is not made before the conviction of such person, he shall be imprisoned for any term less than one year, and exceeding three months, at the discretion of the court.

## ARTICLE XXVI.

### WEIGHTS AND MEASURES.

SEC. 65. Every person who shall, with intent to defraud, use, or induce others to use, any false weight or measure; or shall give or receive any false weight or measure in buying, selling, exchanging, or disposing of any commodity, sold by weight or measure, shall be deemed guilty of a misdemeanor, and, upon conviction, be imprisoned for any term less than one year, and not less than thirty days, and be fined in double the amount of damage sustained by the injured party, for his benefit; *provided*, whenever any commodity shall be sold by the hundred pounds, it shall be construed to mean the net weight of one hundred pounds avoirdupois, and all contracts concerning goods or commodities sold by weight shall be construed accordingly, unless such construction would be manifestly inconsistent with the special agreement of the parties contracting.

SEC. 66. A bushel shall contain twenty-one hundred and fifty and forty-two one hundredths (2150.42) cubic inches. The Fairbanks' warehouse or platform scales are hereby adopted as the legal standard of weights in the Cherokee Nation, and the weight of the

following commodities, by the bushel, shall be as follows, to-wit:

Wheat,	-	-	-	-	60 lbs.	Top or Button Onions,	-	-	28 lbs.
Shelled Corn,	-	-	-	-	56 "	Peas,	-	-	60 "
Corn in ear,	-	-	-	-	70 "	Corn Meal,	-	-	48 "
Oats,	-	-	-	-	32 "	Osage Orange Seed,	-	-	33 "
Barley,	-	-	-	-	48 "	Plastering Hair,	-	-	8 "
Rye,	-	-	-	-	56 "	Clover Seed,	-	-	60 "
Broom Corn Seed,	-	-	-	-	44 "	Timothy Seed,	-	-	60 "
White Beans,	-	-	-	-	60 "	Red Top Seed,	-	-	14 "
Irish Potatoes,	-	-	-	-	60 "	Hungarian Grass Seed	-	-	50 "
Sweet Potatoes,	-	-	-	-	55 "	Blue Grass Seed,	-	-	14 "
Turnips,	-	-	-	-	55 "	Dried Apples,	-	-	24 "
Onions.	-	-	-	-	56 "	Dried Peaches,	-	-	28 "

*Provided, further,* that nothing in this section shall be so construed as changing the standard weights and measures used by apothecaries and others in the sale of drugs and medicines.

## ARTICLE XXVII.

### BETTING ON ELECTIONS.

SEC. 67. Every person who shall bet, stake, or wager, any money, or other thing of value, upon the result of any election held in this Nation, shall be deemed guilty of a misdemeanor, and, upon conviction, be fined not less than one hundred dollars, nor exceeding five hundred dollars, and, in default of payment of such fine, shall be imprisoned not less than three, nor exceeding six months.

## ARTICLE XXVIII.

### OBSTRUCTING PUBLIC ROADS.

SEC. 68 Every person who shall willfully and unnecessarily obstruct, wholly or in part, any public

road within the Nation, by felling trees in or across the same, or by filling any cuts, or in any manner rendering the crossings of any stream impracticable, on such road, or by enclosing within his improvements, by fencing or otherwise, any part of such road, without first having opened a practicable way around such improvement or fencing to be made, or in any other manner preventing a free passage along such road; and every person who shall alter, deface, remove, or destroy, any sign board, erected for the guidance of travelers upon such road, shall be deemed guilty of a misdemeanor, and, upon conviction, be fined not less than twenty-five dollars, nor exceeding one hundred dollars. And no property shall be exempted from the payment of such fine, improvements excepted. *Provided*, that every road designed for the passage of wagons or other vehicles, opened or used by any citizen or neighborhood, shall be construed to mean a public road, within the meaning of this section.

## ARTICLE XXIX.

### DESTROYING PECAN AND OTHER TREES.

SEC. 69. Every person who shall willfully cut down, kill, or destroy any pecan, walnut, hickory, or other fruit or nut bearing tree, standing and growing upon the public domain of the Cherokee Nation, or shall cut down the same for the nuts or fruit thereof, shall be deemed guilty of a misdemeanor, and, upon conviction, be fined not less than twenty dollars, nor

more than fifty dollars, or, in default of payment or such fine, be imprisoned not less than ten, nor exceeding sixty days; *provided*, however, that nothing in this section shall be so construed, as to prohibit the felling or killing such trees when necessary in the improvement or enlargement of farms, or when the timber thereof is designed for fuel, or other useful purposes.

### ARTICLE XXX.

#### PRINCIPALS AND ACCESSORIES.

SEC. 70. Every person, being present, who shall aid, abet, assist, encourage, or consent to the perpetration of any crime, shall be deemed a principal. And every person, not being present, who shall advise, counsel, encourage, or consent to, the commission of any crime, shall be deemed an accessory.

SEC. 71. Every person who shall be indicted and convicted as an accessory, shall be punished in like manner as the principal, and may be proceeded against and tried either before or after the trial of the principal.

SEC. 72. Every person who shall be convicted of having concealed, received, or released any person charged with a criminal offense, or of having aided or assisted such person, knowing such person to be so charged, with intent to enable such person to escape, or to avoid arrest, trial, conviction or punishment, after

the commission of such offense, on conviction thereof, shall be punished by imprisonment for any term not to exceed three years, at the discretion of the court; and in prosecutions for offenses specified in this section, it shall not be necessary to aver in the indictment, or to prove on the trial, that the principal has been convicted or tried.

SEC. 73. Every person who shall receive, conceal, buy, sell, or dispose of any stolen goods, wares, or other valuable thing or property, knowing them to be such, shall be deemed an accessory, and, upon conviction, be punished in like manner as the principal, and such person may be proceeded against, and tried, either before or after the principal.

## ARTICLE XXXI.

### SLANDER OR LIBEL.

SEC. 74. Every person who shall falsely charge, or wantonly or maliciously speak, write, print, disseminate, or otherwise give publicity to, any word, matter, or thing, for the purpose of injuring another person in character, feeling, or property, or for the purpose of so injuring the family or friends of such person, shall, on conviction thereof before any court of competent jurisdiction, be deemed guilty of willful and malicious slander, and suffer punishment by fine in any sum not exceeding two thousand dollars, for the benefit of the person injured, or by imprisonment for any term not

exceeding two years, or by both fine and imprisonment at the discretion of the court.

SEC. 75. The repetition or utterance of any charge or accusation, whereof the person accused has been tried and honorably acquitted by any legal tribunal of this Nation, may be deemed libelous, or not, according to the time and circumstances attending such utterance.

## ARTICLE XXXII.

### SUNDAYS.

SEC. 76. The seventh portion of time, beginning and ending with Sunday, the first day of the week, shall be a day of rest within the limits of the Cherokee Nation ; and every merchant, mechanic, artist, or other person, who shall keep open his store, ware-house, shop, work-house, or other place of business, or shall engage on Sunday in any manner of work, labor, or business, except only works of necessity and charity, shall be deemed guilty of a misdemeanor, and, upon conviction thereof before any court of competent jurisdiction, be fined in any sum not exceeding fifty dollars, for each and every such offense, at the discretion of the court.

SEC. 77. One half of all fines, collected under this act, shall be paid into the general fund of the Nation, and the other half be paid to the solicitor and sheriff, prosecuting and collecting the same, equally ; *provided*,

that the keeping open of apothecary shops, and the preparation and sale of medicines on Sundays, for immediate use, shall not be deemed a violation of the provisions of this act.

### ARTICLE XXXIII

#### DAMAGES.

SEC. 78. Whenever any person is injured in property by the unlawful act of another, he shall, within ten days after he is apprised of such injury, report the same to the judge of the district in which the act was done, who shall thereupon immediately appoint and qualify three suitable persons to assess the amount of damages sustained by the party injured; and the amount so assessed, certified to, and signed by the persons so appointed, shall be final as to the damage sustained, when judgment may be given thereupon according to law.

# CHAPTER V.

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## AN ACT RELATING TO EXECUTIONS.

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### ARTICLE I.

#### EXECUTION IN CAPITAL AND CRIMINAL CASES.

SEC. 1. The punishment of death shall in all cases be inflicted by hanging the convict by the neck until he be dead; and the sentence shall, at the time directed, be executed within the walls or enclosure of the national prison, at the town of Tahlequah, by the high sheriff, or some one deputized by him for that purpose.

SEC. 2. Whenever any person shall be convicted of any crime, for which sentence of death shall be awarded against him, the presiding judge in that case shall, in open court, pass the sentence of death upon the person so convicted. He shall, at the same time, fix the time for the execution in his order to the high sheriff, signed by himself and the clerk of the court; which order, together with the convict, shall be committed to the custody of the sheriff of the district in which the case was tried, to be by him safely delivered to the high sheriff or his deputy, at or within the prison at Tahlequah, and such order of the judge shall

be a sufficient authority for the high sheriff, or his deputy, to execute such sentence ; and he shall execute it accordingly.

SEC. 3. A respite of not less than thirty, nor exceeding ninety, days from the day of sentence shall be given to every convict awaiting the execution of the death penalty.

SEC. 4. Ministers of the Gospel shall have, under the high sheriff, free access to all criminals awaiting the infliction of the death penalty ; and whenever the death penalty is to be inflicted, the high sheriff shall, if practicable, cause a physician or surgeon, the sheriff of Tahlequah district, or his deputy, and not less than six other reputable citizens of the Nation, to be present to witness the execution. He shall permit the counsel and immediate relations of the criminal, and the officers and assistants of the prison, and such others as he may see fit, to be present.

SEC. 5. Whenever the punishment of death shall have been inflicted, as herein provided, the high sheriff shall return the order for execution with a statement thereto attached, of his doings therein, as soon as may be after the execution, to the clerk of the court having jurisdiction, for record. He shall also make record of the same in the office of the prison.

SEC. 6. In every case in which the punishment of imprisonment in the national prison is awarded against any convict, the court (judge) shall transmit by the sheriff having custody of such convict the sentence or decree of the court, to the high sheriff, and the term of

punishment of such convict shall date from the day on which he is delivered for imprisonment to the high sheriff.

# CHAPTER VI.

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## AN ACT RELATING TO THE NATIONAL PRISON.

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### ARTICLE I.

#### THE NATIONAL PRISON, DISCIPLINE AND MANAGEMENT.

SEC. 1. The National prison, at Tahlequah, shall be the general prison of the Cherokee Nation, for the reformation, as well as for the punishment, of offenders, in which shall be confined, employed at hard labor, and governed, all offenders who have been sentenced, and committed according to law, to the punishment of solitary confinement, or imprisonment and confinement therein at hard labor. It may, also, be used, when deemed expedient, for the safe keeping of persons charged with murder, or other high crimes, and for the temporary confinement, or confinement and punishment of persons sentenced by the National Council, or who may be put under arrest for drunkenness, or other misdemeanor, at the seat of government.

SEC. 2 The organization of the National prison shall consist of one chief officer, to be known and designated "High Sheriff of the Cherokee Nation," one deputy, a board of supervisors, and such assistants as shall be authorized by law.

SEC. 3. The high sheriff shall be appointed by the Principal Chief, with the advice and consent of the senate, and his term of office shall be co-extensive with that of the Principal Chief appointing him. He shall be warden and treasurer of the National prison, and custodian of the capitol building and other public property at the seat of government, and shall perform such general and special duties as shall be imposed upon him by law. He shall receive, out of the National treasury, a salary of five hundred dollars per annum, and shall, before entering upon the discharge of his official duties, obligate to the Cherokee Nation, in such reasonable bond as shall be required by the board of supervisors, and take an oath to faithfully, and to the best of his ability, perform all of the duties devolving upon him by virtue of his office.

SEC. 4. The bond of the high sheriff shall be put on file, for safe keeping, in the office of the Principal Chief, and such high sheriff and his sureties, shall be jointly and severally responsible for every breach of its conditions.

SEC. 5. The board of prison supervisors shall be composed of the Principal and Assistant Principal Chiefs and Executive Council. The Principal Chief shall be "*ex-officio*" president of said board, with authority to convene and adjourn the board whenever he shall deem it expedient so to do. In his absence, or inability to act, the Assistant Principal Chief, or either of the other members of the board, may preside.

SEC. 6. The board of supervisors shall visit the

prison from time to time, examine into its condition, and into the condition of the prisoners, and render such advice and aid to the high sheriff as they may deem necessary. They shall prescribe rules and regulations for the guidance of the high sheriff, and for the government of the prison, and the employment of the prisoners. They shall carefully inspect the accounts of the high sheriff, and shall have the right to curtail or reject all contracts made on account of the prison which are manifestly fraudulent, exorbitant, or unjust.

SEC. 7. The high sheriff may appoint his own deputy, with the concurrence of the board of supervisors. He may appoint, in like manner, such cooks, police force, and other assistants, as shall be required, from time to time, in the prison service.

SEC. 8. The high sheriff shall be responsible for the management of the prison, according to the rules and regulations prescribed by the board of supervisors, and the laws of the Nation thereto applying.

SEC. 9. The high sheriff, or his deputy, as warden of the prison, shall reside within the precincts of the prison. He shall have the letting and making, with the approval of the board of supervisors, of contracts for supplies and work in and for the prison; and, as treasurer, shall settle all bills in such manner as shall be prescribed by the board of supervisors.

SEC. 10. Neither he nor any person, holding a position in connection with the prison, shall, directly, or indirectly, have any interest in any contract, either

verbal or written, which may be entered into by him on the part of the Cherokee Nation, for any purpose whatever connected with the business or interests of the prison.

SEC. 11. As warden of the prison, the high sheriff shall furnish to the prisoners under his charge, such wholesome fare as shall be designated by the board of supervisors. He shall see that the provisions intended for the use of the prisoners are well and sufficiently cooked and properly served. As far as may be, he shall, with the consent of the board of supervisors, purchase all supplies of bedding, clothing, fuel and other necessary articles, by the quantity, and at the lowest market rates.

SEC. 12. The high sheriff shall have the charge and custody of the prison, with the lands, buildings, furniture, tools, implements, stock and provisions, and every species of property thereto pertaining, or within the precincts thereof; and shall superintend the police of the prison, and discipline of convicts; and shall receive, and disburse, such sums of money as shall be granted by the National Council for the support of the prison, in conformity with the express provisions of law, and the instructions of the board of supervisors.

SEC. 13. He shall make an annual detailed report, closing on the thirtieth day of September of each year, to the Principal Chief, which shall contain a full and accurate statement of all the concerns of the prison for the fiscal year ending September thirtieth; also a list of the convicts received into, discharged, pardoned and

died, during the year, with an estimate of expenses for the ensuing year; which report shall be made to the Principal Chief on or before the tenth day of October of each year, and shall be by him, with a report of the board of supervisors, laid before the National Council, at the ensuing annual session thereof.

SEC. 14. He shall, as frequently as may be, secure some minister of the Gospel to hold divine service in the prison, instruct the prisoners in their moral and religious duties, and visit the sick among them.

SEC. 15. Should a controversy arise respecting any contract made on account of the prison, the same may be submitted to the final determination of three arbitrators or referees, to be appointed by the Principal Chief.

SEC. 16. All processes to be served within the precincts of the prison, either upon convicts, upon officers, or other persons employed within the precincts of the prison, shall be served by the high sheriff, or by his deputy, or other person next in rank; and all officers, and other persons in the prison service, shall be exempt from serving on juries and guard.

SEC. 17. It shall be the duty of the high sheriff to see that all judgments passed upon persons sentenced to the National prison are strictly, but not cruelly, enforced. He shall govern and employ them in the manner prescribed by law, the rules and regulations of the prison, and in conformity to the respective sentences under which they shall be committed.

SEC. 18. All officers, and other persons employed in and about the prison, shall perform such duties per-

taining thereto as shall be required of them by the high sheriff in conformity to law and the rules and regulations of the prison.

SEC. 19. The clothing and bedding of the convicts shall be of such quality and quantity as the judgment of the high sheriff and board of supervisors may approve, consulting the health and comfort of the convicts, and the interests of the Nation.

SEC. 20. The high sheriff, and those employed under him, shall use every necessary means to maintain order in the prison, enforce obedience, suppress insurrection, and effectually prevent escapes; for which purpose the high sheriff may at any time, if necessary, command the aid of any adequate number of citizens of the vicinity; and every person, refusing to obey such command, shall be held liable to such fines, penalties, or forfeitures, as apply to persons refusing to obey a sheriff or other officer calling for aid to assist in serving criminal process, or in quelling insurrection or riot.

SEC. 21. The high sheriff, as warden and treasurer of the prison, shall renew his bond whenever deemed necessary by the Principal Chief, and obligate for such sum as may be required by the Principal Chief. He shall require all of his subordinates, in the discharge of their respective duties, in all cases, to refrain from the use of boisterous, harsh, and unbecoming language to the prisoners, and to each other, in or about the prison.

SEC. 22. The Principal Chief shall visit the prison as frequently as may be, confer with the high sheriff,

and make such suggestions in regard to the management of the institution, as he may consider appropriate and for the interest of the same.

SEC. 23. Every convict, serving one year or more, when discharged or pardoned, shall be provided by the high sheriff with a decent suit of clothes, and not exceeding five dollars in money.

SEC. 24. All money and other effects, in the possession of convicts when committed to prison, shall be preserved by the high sheriff, and be restored to such convicts when discharged or pardoned, unless otherwise ordered by the courts having had jurisdiction of such cases.

SEC. 25. In case of the death of any convict, the high sheriff shall cause the body to be decently buried, unless claimed by some of the relations or friends of such convict, in which event the body, and effects if any, shall be delivered to them.

SEC. 26. Whenever any person, committed to prison for any cause whatever, shall be unruly, or shall disobey any prison regulations, the high sheriff may order such prisoner to be kept in solitary confinement, and fed on bread and water only, for a period not exceeding thirty days for each offense.

SEC. 27. The high sheriff shall provide at the expense of the Cherokee Nation, for each prisoner under his charge, a copy of the Holy Scriptures, to be used by such prisoner, at proper seasons, during his confinement; and any minister of the gospel, disposed

to aid in reforming the prisoners, and instructing them in their moral and religious duties, shall have access to them at seasonable and proper times.

SEC. 28. All convicts, sentenced to the punishment of hard labor in the prison, shall be employed as constantly as may be, for the benefit of the Cherokee Nation; no communication shall be allowed between them and any person without the prison; they shall be securely confined in the night time in different cells, or apartments, if practical, and in the day time all communication between them shall be restricted or entirely prevented.

SEC. 29. Male and female convicts shall not be permitted to occupy the same apartments.

SEC. 30. If any convict, sentenced to the national prison for a limited time, shall escape, or use, or attempt to use, any violent means to escape, he, or she, shall be punished by imprisonment in said prison not more than ten years in addition to his or her former sentence, at the discretion of the court having jurisdiction.

SEC. 31. If any convict in the national prison, under sentence of imprisonment for life, shall escape therefrom, or shall commit assault upon any one for the purpose of escaping, he or she shall be punished by solitary imprisonment, not more than one year, to be executed at such time as the court having jurisdiction shall direct.

SEC. 32. The high sheriff shall annually make an inventory of all property belonging to the prison,

closing with the fiscal year, and report the same to the Principal Chief within ten days after the close of such fiscal year. He shall at the same time, and accompanying such schedule or inventory, render the annual report hereinbefore provided for, and such inventory and report shall be submitted by the Principal Chief for the information of the National Council at the next annual session of the same.

SEC. 33. The high sheriff shall keep, or cause to be kept, in suitable books, regular and complete accounts of all expenses, income, business, and concern of the prison; also a register of all prisoners received, discharged, pardoned, or died, and such other matters as may be necessary in statistics of the kind; he shall, at all suitable hours, permit all authorized persons to examine the books of his office; and shall admit visitors at such times and in such manner as shall be designated by the board of supervisors.

SEC. 34. The high sheriff shall enter upon his register a minute and correct description of every convict received into the prison; and may adopt such means as he may deem best to recapture escaped prisoners.

SEC. 35. The deputy of the high sheriff shall have the same authority as the high sheriff; and, in the absence of the high sheriff, or his inability to act, shall assume all of the duties and be subject to all the liabilities of that officer.

SEC. 36. The high sheriff shall pay his own deputy, until otherwise provided for by law.

SEC. 37. No tea, sugar, coffee, tobacco, or other article of luxury or indulgence, shall be allowed any convict, except by order of a physician, and for a definite period; *provided however*, that the board of supervisors may suspend the enforcement of this provision so far as regards the use of sugar and coffee by convicts actively employed at productive labor.

SEC. 38. The high sheriff, his deputy, and all other officers employed in the prison service, may be suspended from office by the Principal Chief for malfeasance, misconduct, or incompetency in office, and the vacancy, thus created, filled in the usual manner.

SEC. 39. Convicts, awaiting in the national prison the execution of the death penalty, and sentenced to be executed at or within the precincts of the prison, shall be executed, in accordance with the mandate of the lawful authority, by the high sheriff, or his deputy, or by such other person as the high sheriff shall deputize for that special purpose.

SEC. 40. The high sheriff, as custodian of the public property at the seat of government, shall have charge of the capitol, and the public grounds inclosing the same, and the commons thereto adjoining, and of all movable property belonging to the Nation at or in the capitol, not by law in the charge of other officers; *provided*, that nothing herein contained shall authorize the said high sheriff to interfere with any rooms in the capitol that may be appropriated by law for the use of the senate and council, or for other national officers, during the time the same may be used and occupied.

SEC. 41. The high sheriff shall keep the capitol, the furniture and other property therein and thereto belonging, and the public grounds and commons contiguous thereto, in a proper state of cleanliness and repair, and shall be responsible for the safe keeping and preservation of the same. He shall make such improvements and repairs as may be from time to time authorized by law. He shall have charge of the keys and fastenings of the exterior doors of the capitol, and of all rooms not occupied for public purposes. He shall unlock and open the exterior doors of the capitol during the sessions of the National Council, or the sitting of the supreme court, at the hour of seven in the morning, and keep the same open until the hour of ten at night; *provided*, he shall not interfere with the sessions of the courts or of the National Council.

SEC. 42. The high sheriff shall at all times keep the rooms of the capitol clean and properly ventilated, and during the sessions of the National Council and supreme court, well warmed and supplied with pure water. It shall be his especial duty to cause to be prosecuted, every person who shall be guilty or accused of stealing, taking, willfully destroying or defacing, or in any manner trespassing upon any public property lawfully in his custody.

SEC. 43. The high sheriff shall be a conservator of the peace, with such general powers as are exercised by sheriffs, besides such special or extraordinary powers as may be conferred upon him by law. He shall wait upon, open, and adjourn the sessions of the supreme

court, and execute its mandates. He shall also wait upon and execute all orders of the National Council and of the committees thereof. He shall have full authority, during the sessions of the National Council, and at all other times, to suppress within the vicinity of the capitol, all riotous brawls, obscene or other improper conduct, and to enforce obedience to the laws, and may, whenever necessary, summon any extra adequate force to his assistance. He may summarily arrest, imprison and hold, until duly sober, any person acting improperly while under the influence of intoxicating drinks, and arrest, imprison, and deliver to the proper authority, all other persons who may be guilty of a breach of the peace at or about the seat of the government.

SEC. 44. All fuel, water, and fires, for and in the supreme court room, the offices of the executive, treasurer, and auditor of accounts, and for the senate, council, and committee rooms, shall be provided by the high sheriff out of his salary until otherwise provided for by law. And said high sheriff shall require one or more of his employees to be constantly in attendance during the sessions of the senate and council, for the purpose of keeping the rooms in proper condition, and for the purpose of discharging any other duties of said high sheriff, as custodian of the public property; *provided*, however, that the assistant clerks of the senate, of the council, and of the Principal Chief, shall act as messengers in transmitting bills and other official papers from one house to the other; and to and from the Principal Chief; and such clerks shall be responsi-

ble for all papers coming to their hands for that purpose; and such duty shall no longer be required of the fire-makers nor of the high sheriff as custodian of the public property.

SEC. 45. Immediately after the adjournment of each annual or special session of the National Council or supreme court, and as soon as the several clerks shall have filed and secured the public books and papers, as required by law, the high sheriff shall cause the several rooms of the capitol to be put in good condition, and all the shutters, within and without, closed and securely fastened.

SEC. 46. "The high sheriff shall be required to have all the wood, used at the Male and Female Seminaries and Insane Asylum, cut by convict labor, and shall, by the same means, have the roads between the town of Tahlequah and the Insane Asylum and Male and Female Seminaries, and the streets in the town of Tahlequah, kept in good travelling condition—such work to be done from time to time as it may be required.

SEC. 47. All convicts in the National Prison shall be required to wear the prison uniform and none other; and it is the duty of the high sheriff to enforce this requirement." (Dec. 2nd. 1880.)

# CHAPTER VII.

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## AN ACT RELATING TO DISTRICTS AND REPRESENTATION IN NATIONAL AND GENERAL COUNCIL.

- ART. I. Relating to Districts.
- II. Representation in National Council.
- III. Representation in General Council.

### ARTICLE I.

#### RELATING TO DISTRICTS.

SEC. 1. The Cherokee Nation shall be divided into nine districts, to be defined as follows, to-wit:

##### SEQUOYAH DISTRICT.

SEC. 2. Beginning at the mouth of Salisaw creek; thence up the same to the crossing of Rogue's path; thence along said path to within ten yards of Sen-e-kah-wee's house, leaving Sen-e-kah-wee's in Sequoyah district; thence in a direct line to a point one hundred yards north of Edward Still's; thence in a direct line to Corn Tassel's, in Flint district; thence in a direct line to the Yellow Springs; thence to George Still's wagon road, leading to Stone's saw mill; thence in a direct line to Tsi-a-no-na's, leaving Tsi-a-no-na's in Flint district; thence in a direct line to the line of the State of Arkansas; thence south along said line to the Arkansas river; thence up said river to the place of beginning.

## ILLINOIS DISTRICT.

SEC. 3. Beginning at the point where Rogue's path crosses Salisaw creek; thence on a direct line to Allen Gafford's on Elk creek, and down said creek to its junction with the Illinois river; thence across Short Mountain to Eli Harlan's, leaving Harlan's in Illinois District; thence along the road to Joseph Coody's, thence along the road to William Hendricks', leaving Hendricks' in Tahlequah district; thence on the main road to the line of the military reservation of Fort Gibson; thence north on said line to the northeast corner of the reservation; thence west on the reserve line to Grand river; thence due west to the line of the Muskogee Nation; thence south on said line to the Arkansas river, and down said river to the mouth of Salisaw creek, and up the same to the place of beginning.

## CANADIAN DISTRICT.

SEC. 4. Beginning at the junction of the Arkansas and Canadian rivers; thence up the Canadian river to the line of the Muskogee Nation; thence along said line to the Arkansas river, and down the same to the place of beginning.

## FLINT DISTRICT.

SEC. 5. Beginning at the point where Rogue's path crosses Salisaw creek; thence along the line of Illinois district to the Illinois river; thence up said river to the mouth of Caney creek, and up said creek to the mouth of Buffington's spring branch, and up said branch

to the wagon road at Buffington's; thence along the main old road to the crossing of the south branch of the barren fork of the Illinois river; thence up said branch to the line of the State of Arkansas; thence south on said line to the line of Sequoyah district; thence west on said line to the place of beginning.

#### GOING-SNAKE DISTRICT.

SEC. 6. Beginning at the mouth of Little Caney creek, at the residence of the Eagle; thence up said creek to its source at John Young's; thence to Dick Sanders' on the barren fork of Illinois river; thence along the road to James McDaniel's, on Illinois river; thence along the road, or path, leading to Grand Saline, to Saline creek; thence up said Creek to the crossing of the Washington county wagon road, at Gores' old cabin; thence along said road to Flint creek, and up said creek to the line of the State of Arkansas; thence south on said line to the line of Flint district; thence on said line to the mouth of Caney creek, and up the same to the place of beginning.

#### TAHLEQUAH DISTRICT.

SEC. 7. Beginning at the mouth of Little Caney; thence along the line of Going-snake district to Spring creek; thence down the same to Grand river, and down said river to the line of Illinois district; thence along said line to the Illinois river, and up said river to the mouth of Caney creek; thence up said creek to the place of beginning.

**SALINE DISTRICT.**

SEC. 8. Commencing at a point on Spring creek where Going-snake and Tahlequah districts corner, and up the left hand fork of Spring creek, by Switchler Lowrey's, and across to Oo-lee-stu-hee's place, leaving said place in Saline district; thence along a path to Oo-lee-stu-hee's old place, leaving it in Saline district; thence along on the ridge to Chu-le-o's place, leaving that place in Saline district; thence to a ford above Ned Christie's, on Spavinaw; and thence in a straight line to the mouth of a small creek above Ned Persimmon's, on Grand river, and down the same to the mouth of Spring creek, and up said creek to the place of beginning.

**COO-WEE-SCOOWEE DISTRICT.**

SEC. 9. Commencing at the crossing of the line of Illinois district on Grand river; thence up said river to to the mouth of Rock creek, and up the same to the Missouri, Kansas and Texas railroad; thence north on said road to the line of the State of Kansas; thence west on said line to the 96° of west longitude, and south on said meridian to the northern boundary line of the Muskogee Nation, and east on the same to the north east corner of said Muskogee Nation; thence south on the line of said Nation to the line of Illinois district, and east on said line to the place of beginning.

**DELAWARE DISTRICT.**

SEC. 10. Commencing at the mouth of Rock creek, on Grand river, and up said creek to the Missouri,

Kansas and Texas railroad ; and thence north on said road to the line of the State of Kansas ; thence east to the line of the Seneca, Quapaw and other affiliated tribes ; thence following the boundary line between said tribes and the Cherokees to the line of the State of Missouri ; thence south on said line, and the line of the State of Arkansas, to the line of Going-snake district ; thence west on said line to the south-east corner of Saline district ; thence on the line of said district to Grand river, above Ned Persimmon's ; thence by the river to the place of beginning.

## ARTICLE II.

### APPORTIONING REPRESENTATION IN THE COUNCIL.

SEC. 11. "In accordance with article third, section second, of the amendments to the constitution, there shall be elected, at the election to be held on the first Monday of August, 1881, and thereafter until the taking of the next census, as provided for by the constitution, the following number of members of the council from each district, to-wit:

From Illinois	District,	5 members.
" Canadian	" 4	"
" Sequoyah	" 3	"
" Flint	" 3	"
" Going-snake	" 4	"
" Delaware	" 6	"
" Saline	" 3	"
" Tahlequah	" 5	"
" Coo-wee-scoo-wee	" 7	"

(December 11th, 1880.)

## ARTICLE III.

## REPRESENTATION IN THE GENERAL COUNCIL.

SEC. 12. The representation in the General Council of the Indian Territory, to which the Cherokee Nation by its population is entitled, shall be eighteen, and shall, until otherwise ordered, be apportioned as follows, to-wit:

From Canadian	District,	2 members.
" Sequoyah	" 1	"
" Flint	" 1	"
" Going-snake	" 2	"
" Delaware	" 2	"
" Coo-wee-scoo-wee	" 3	"
" Tahlequah	" 2	"
" Saline	" 2	"
" Illinois	" 2	"

And one to be elected by a joint vote of the National Council and commissioned by the Principal Chief. The term of office of membership of the General Council shall be two years, and they shall be elected at the times, places, and manner provided by law.

# CHAPTER VIII.

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## AN ACT RELATING TO ELECTIONS.

- ART. I. Relating to Elections.
  - II. Manner of Contesting Elections.
  - III. Frauds at Elections.

### ARTICLE I.

#### RELATING TO ELECTIONS.

SEC. 1. Elections for Principal Chief, Assistant Principal Chief, members of the National Council, and all other officers elected by the people, shall be held on the first Monday of August.

SEC. 2. Every male citizen of the Nation, aged eighteen years, who shall have been a "*bona fide*" resident of the district, wherein he proposes to vote, for six months immediately preceding the election, and who shall not have been, after the passage of this act, convicted of any felony, unless restored to such right by pardon or act of the National Council, or who shall not at the time be undergoing punishment in prison for any crime or misdemeanor, and who shall not be insane, or "*non compos mentis*," shall be deemed a qualified elector.

SEC. 3. The clerk of each district in which an election is to be held shall promptly, and as generally as may be, promulgate the writ of election, or proclamation of the Principal Chief, for the information of the

qualified electors of his district. He shall cause to be published, by posting up in some conspicuous place at each and every precinct in his district, the names of all persons put in nomination for office ten days prior to the election. He shall also appoint and notify, in writing, two clerks and two superintendents of election for each precinct, one of whom shall be able to speak both Cherokee and English, selecting them as equally as may be from the supporters of the opposing candidates.

SEC. 4. He shall provide and furnish the clerks of each precinct in his district, the necessary blank rolls and envelopes to be used in conducting the election.

SEC. 5. The rolls shall be headed, "Returns of election held on the — day of —, at — precinct, — district, Cherokee Nation;" and shall state the offices to be filled, and the names of the candidates to each, and shall be ruled with the necessary spaces to record the names of the voters, and the votes each candidate may receive. There shall be thus prepared and furnished, one roll for Principal and Assistant Principal Chiefs and members of the National Council, and one for sheriffs, judges, clerks, members of the General Council of the Indian Territory, and all other officers that may be elected by the popular vote. Before delivering the envelopes and rolls to the clerks of the election the clerk of the district shall affix his seal of office to each, and no others shall be used unless unavoidable; and when others are so used, the

superintendents and clerks, shall, on the roll, state the reasons therefor.

SEC. 6. In case of the death, absence, or inability to act, of any superintendent or clerk of election, at any precinct, the legal voters present may choose, "*viva voce,*" from qualified voters present, such number as may be necessary to fill the vacancy; but no person shall be appointed clerk or superintendent who is a candidate for office at such election, or who is not a qualified voter of the district.

SEC. 7. Before entering upon the discharge of their duties each of the superintendents and clerks shall be required to take the following oath (or affirmation,) to-wit:

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"You, and each of you, do solemnly swear (or affirm,) that you will well and truly conduct the election; that you will not in any manner, while in the discharge of your duty, attempt to influence or bias the voting of any voter, or suffer the same to be done by others in your presence; but that you will in all things faithfully conform to the requirements of the law governing elections, to the best of your ability, without favor, partiality or fraud. So help you God."

Said oath or affirmation may be administered by any person authorized by law to administer oaths, or by any of the superintendents or clerks of the election.

SEC. 8. After the superintendents shall have been qualified, they shall appoint three suitable and discreet persons to act as supervisors, to be selected as equally as possible from among the supporters of the opposing candidates. The supervisors shall, before entering upon the discharge of their duty, take the following oath,

which may be administered by either of the clerks or superintendents of election, to-wit:

"You, and each of you, do solemnly swear, that you will faithfully perform all the duties of supervisors during the present election; that you will not in any manner, while in the discharge of your duty, attempt to influence or bias the voting of any voter, nor suffer the same to be done by others; but will in all things conform to, and, to the best of your ability, require others to conform to, all the requirements of the law governing elections, without partiality, favor, or fraud. So help you God.

SEC. 9. Before the opening of the polls, the supervisors shall measure and mark off a space of fifty feet, encircling the polls, within which no person, except the officers of the election, shall be allowed to come but for the purpose of voting, and then but one at a time. Each voter, after casting his vote, shall promptly retire beyond the prescribed limit.

SEC. 10. The supervisors shall have full authority to maintain and preserve the peace during any election, counting of the votes, and making up the returns thereof; and for thta purpose, they may, if necessary, summon any number of persons present, to aid and assist in quelling any riotous or disorderly conduct, or to prevent any threatened breach of the peace. They shall suppress the sale of, or indulgence in, intoxicating drinks, by wasting such liquors, and may arrest, and remove from the precinct, any drunken or disorderly persons, or hold, and deliver to the custody of the sheriff for prosecution, any person guilty of a criminal violation of law.

SEC. 11. The polls shall be opened between the hours of seven and eight o'clock in the forenoon, and kept open until sunset of the same day; but a recess of one hour may be taken at noon, the superintendents and clerks remaining in company and in possession of the rolls. On the opening of the polls, one of the superintendents shall proclaim the same in an audible voice to the voters present, and state what offices are to be filled. No superintendent, supervisor, or clerk of election shall be allowed to influence or bias, or attempt to influence or bias, the voting of any voter, by word, deed, or in other manner, while in the discharge of his duty, nor to delay, or prevent, the casting thereof, except as hereinafter provided for the challenging and determining the qualifications of voters.

SEC. 12. It shall be the duty of the superintendents, clerks, and supervisors of elections, to challenge the vote of any person, whom they know, or suspect, to be not a legally qualified voter. For the determining of the legality of a challenged vote, the superintendents shall receive the statement of the voter, on oath, and such other sworn evidence as may be there and then available, upon which they shall determine the question of his right to vote, and for this purpose any clerk or superintendent may administer oaths.

SEC. 13. On opening of the polls, one of the superintendents or clerks shall expose for the inspection of the voters present the rolls then to be used, before any names of the voters are recorded thereon. And if necessary to lengthen any roll, for the accommodation

of voters, it shall be done publicly, by attaching to the main roll the necessary blanks, before any names are recorded thereon; and the superintendents and clerks shall state such fact in their certificate.

SEC. 14. One of the clerks shall record the name of each voter as he presents himself to vote, and place his vote to the candidate, or candidates, designated by such voter; the other clerk shall carefully observe that no mistakes are made in the registry of votes. Each voter shall state, "*viva voce*," the name of each candidate for whom he desires to vote. Either of the clerks, when required by a voter, shall distinctly name the candidates for each office, stating the number to be elected, beginning with the first, then in like manner proceeding to the next, and ending with the last office on the roll.

SEC. 15. There shall be kept a roll of every person whose vote is challenged, and permitted to vote, also, a roll of every person challenged and not permitted to vote, showing for whom such person intended to vote; and said rolls shall be certified to, and signed, by the superintendents and clerks in like manner as the regular poll list, and shall be transmitted with the returns.

SEC. 16. As soon as the polls are finally closed, and before leaving the room or place of holding election, the superintendents and clerks shall proceed to sum up the whole number of votes cast at the precinct and the number for each candidate, and shall continue without adjournment, until completed. The whole number of votes cast, as well as the number for each candidate, shall be stated at the foot of the roll,

after which, they shall certify to the correctness of the rolls, sign, envelope, seal, and address the same to the clerk of the district, and mark "election returns of —— precinct, —— district." The counting of the votes shall be done publicly, in the presence of any person desiring to witness the same, and the result shall be publicly announced by one of the superintendents, who shall state the whole number of votes polled, and the number received by each candidate. The returns shall be taken charge of by the superintendents who, for that purpose, shall remain together.

SEC. 17. On the following (next) day after election the superintendents shall assemble at the regular place of holding court in each district, and deliver the returns to the clerk of the district, who shall be present to receive the same, and who shall, in the presence of the superintendents so assembled, proceed to open and count the vote of each precinct, and issue a written certificate of election to each candidate, to the number requisite for each office, who shall have received the highest number of votes. The returns shall again be carefully enveloped and sealed up in a single package, and marked "election returns for —— district, Cherokee Nation;" and be placed by the clerk in the hands of the sheriff or his deputy on the same day that they are received. And the sheriff, or his deputy, shall, within six days after such returns are to him delivered, deliver the same in person to the Principal Chief, or his secretary, at the seat of government.

SEC. 18. In any election in which there shall be

no choice, in consequence of two or more competing candidates for a particular office receiving the same number of votes, the Principal Chief, upon receiving notification of the fact from any authentic source, shall immediately issue a writ authorizing the holding of another election in the district in which such tie may have occurred; and it is made the especial duty of the clerk of the district, at the time the returns are transmitted, to promptly notify the Principal Chief of any tie that may occur in his district. And any clerk, failing or refusing to report such tie, shall be suspended from office by the Principal Chief. Any number of candidates may compete for the office in any such election.

SEC. 19. The returns for Principal and Assistant Principal Chiefs and members of the National Council shall be made, through the Principal Chief, to the National Council, superscribed "to the President of the Senate," and marked "election returns of — district, Cherokee Nation."

SEC. 20. The returns for members of the General Council of the Indian Territory and for officers requiring commissions shall be addressed "to the Principal Chief," and marked, "election returns of — district, Cherokee Nation." The Principal Chief shall be authorized to open the returns addressed to him, and, no legal objection appearing, he shall commission the candidates who appear to be duly elected; but such commission shall not be a bar to action by any person who may wish to contest such election.

## ARTICLE II.

## MANNER OF CONTESTING ELECTIONS.

SEC. 21. Every person, wishing to contest the right of another to a seat in either branch of the National Council, shall, within forty days after holding of the election, make oath before the clerk of the district wherein the contest arises that he has good and sufficient cause to contest the same; and the clerk shall thereupon issue a written notification to the person holding the certificate of election, which notification shall distinctly set forth all the grounds for such contest, and be, within ten days after its issuance, served by the sheriff upon the person holding the certificate of election, either personally, or by leaving a copy thereof at his usual place of residence, and be returned within five days after its service by the sheriff, with his certificate of service thereon stating the manner thereof, to the party obtaining the same, who shall transmit it, with his evidence, to the presiding officer of the branch of the National Council wherein the contest is to be determined.

SEC. 22. After the service of the notification, either party may proceed to take testimony before the clerk upon the issues set forth in such notification, and the clerk shall afford to either party every facility to mature testimony, and the testimony so taken shall be by the clerk certified to, enveloped, sealed up, and addressed to the presiding officer of the branch of the National Council wherein the contest is to be deter-

mined, with the names of the parties, and the nature of the case, endorsed upon the envelope. And the testimony thus taken, endorsed, and directed, shall be delivered to the respective parties interested, each holding the testimony taken in his own interest; and the testimony may be so taken from time to time, by either party, until the Monday immediately preceding the meeting of the National Council. No other testimony shall be received, or accepted, from either party in the determination of such contest, except the official returns and certificate of election; *provided, however,* in elections held during the sessions of the National Council, or so short a time previous thereto as to preclude a fair and full investigation as herein provided for, contests may be brought and prosecuted directly before either house of the National Council, under such rules as the house may prescribe.

SEC. 23. Every contestant shall, upon the assembling of the members elect, and before any of them are qualified, declare verbally, or in writing, in person, by counsel, or by a member whose seat is not contested, his purpose to contest a certain seat, and that he has complied with all the requirements of law, and is ready to present his case, whereupon all the testimony, taken as hereinbefore provided, shall be submitted.

SEC. 24. No person, whose right to a seat in either branch of the National Council is contested, shall be sworn in, or be permitted to participate in any of the business proceedings of the house while the contest is

pending. He may, however, enjoy the freedom of the house on his good behavior, pending the contest.

SEC. 25. As soon as a permanent organization is effected, and before proceeding with any other business, the presiding officer of the house wherein the contest is pending shall cause all the testimony in the case to be read; and the house shall at once proceed to examine and determine such case. A majority of the members present, being a quorum of the whole, as required by the constitution to transact business, shall be necessary to admit to a seat, either the contestant or the person holding the certificate of election. A tie in either branch of the National Council in a contested election case shall be deemed a tie of the voters of the district wherein the contest originated, and shall be by the presiding officer reported to the Principal Chief, who shall issue a writ of election as provided for by law.

SEC. 26. The election of Principal Chief may be contested by petition to the National Council, signed by at least one hundred electors, setting forth the grounds on which the said election is contested; and, thereupon, the two branches shall meet in joint session, and elect a committee, to consist of two members of the senate and three of the council, who shall take into consideration said petition, and shall have power to compel the attendance of witnesses and the production of papers; and, when said committee shall have reported to their respective houses, the two houses shall again meet in joint session to consider said report; and, if it shall appear that the Principal Chief obtained his election by

bribery, fraud, or tumult, or other illegal or improper means, his office shall be declared vacant, and the Acting Principal Chief shall issue a writ of election within five days thereafter, directing the holding of an election to fill such vacancy. Not less than thirty, nor exceeding forty, days' notice shall be given of said election. And whenever the office of Principal Chief shall be declared vacant, as herein provided, the National Council shall thereupon adjourn; and shall be again convened by the Acting Principal Chief, within ten days after the holding of such special election, to receive and count the votes thereof, and to instal the Principal Chief elect, and to transact such other business as may be submitted for their action.

SEC. 27. The election of Assistant Principal Chief may be contested, and the contest shall be conducted in like manner as provided for in contesting the election of Principal Chief.

SEC. 28. Any person desiring to contest the election of sheriff, clerk, or other officer elected by the people and commissioned by the Principal Chief, shall be required to obtain a written notification, upon oath, from the clerk of the district wherein the party holding the certificate of election resides, which notification shall be obtained within twenty days after such election, and shall set forth all the grounds of contest, and be served by the sheriff in like manner as provided for contesting elections of members of the National Council. And the parties may, in like manner, take testimony for twenty days after the service of the notification;

after which time, and within ten days, each party shall deliver the testimony, so taken in his own interest, to the chief justice of the supreme court, who shall, as early as practicable, convene and hold a special session of the court for the hearing and determining such contest. The court shall be confined to the testimony so presented, and shall receive none other from either party, excepting the official returns, certificate of election, or commission of defendant. And the court shall have power to award the office to the contestant, or declare the same vacant, as the facts and circumstances of the case may require. A certified copy of the decision of the court shall be by the chief justice transmitted to the Principal Chief, who shall commission the person declared duly elected, or order another election, as the case may require; *provided, however*, if the election of the clerk of the district is contested, and he be the incumbent, the Principal Chief shall upon the written application—setting forth the reasons therefor—of any person wishing to contest such election, appoint and commission a special clerk for that purpose.

SEC. 29. Elections for members of the National Council, and all officers elected by the people, and requiring to be commissioned, may be vitiated and declared void, wholly or in part, for the following reasons, to-wit:

Failure of the superintendents and clerks, or any of them, to qualify; failure of the clerks to record the names of votes or voters; failure of the superintendents and clerks, at the close of the election, to cast and foot

up the registry of voters; failure by them, or any of them, to properly certify to, seal, and transmit the returns; failure of the clerk of the district to properly envelope, seal up, endorse, and transmit the returns; failure of the sheriff to properly transmit or deliver the returns in like condition as received, as by law directed; or any such election may wholly or in part be vitiated and declared void upon sufficient proof of any other facts or circumstances that would destroy the competency of such returns as evidence.

SEC. 30. And whenever it is made to appear that the holder of the certificate obtained his election by bribery, treats, fraud, intimidation, or collusion with or by the officers conducting the election, the contestant, or person having the next highest vote, shall be declared duly elected.

### ARTICLE III.

#### FRAUDS AT ELECTIONS.

SEC. 31. Every person, not having the qualification of a voter, who shall fraudulently vote, or attempt to vote, at any election, or who shall vote, or attempt to vote, more than once for the same candidate, at any election, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, be fined not less than one hundred dollars, and be imprisoned for any time less than one year and exceeding six months, and be forever disqualified from voting.

SEC. 32. Every person who shall, by bribery or treats, attempt to influence any voter in giving his vote, or shall use any threats to procure any voter to vote contrary to the inclination of such voter, or to deter him from giving his vote, shall be deemed guilty of a misdemeanor, and, upon conviction, be fined in a sum not less than one hundred, and not more than five hundred dollars, or be imprisoned for any time less than one year, and exceeding three months, or by both fine and imprisonment, at the discretion of the court.

SEC. 33. Every superintendent of election, who shall willfully and knowingly receive or sanction the reception of the vote of any person not having the qualification of a voter, and every superintendent, clerk, or supervisor of election, who shall be guilty of a wilful neglect of duty, or of any corrupt action in the execution of the same, shall be deemed guilty of a misdemeanor, and, upon conviction, be fined in a sum of not less than one hundred dollars, nor more than one thousand dollars, and be imprisoned for any term less than one year, and exceeding three months.

SEC. 34. Every person who shall, by violence, threats, or riotous conduct, attempt to disturb or break up any election, or unlawfully prevent the free exercise of the elective franchise, or shall assault, or attempt to intimidate any candidate for office, at the time and place of holding election, shall be deemed guilty of a misdemeanor, and, upon conviction, be imprisoned for any term less than twelve months, and exceeding six months, and be fined not less than one hundred dollars,

nor more than five hundred dollars; *provided*, if the offense thus committed would, under other circumstances, be a felony, punished by imprisonment, the offender shall be imprisoned for any term not less than the longest period attaching to such felony, and *provided*, *further*, if such offense be committed by three or more persons, armed with any deadly or dangerous weapon, they shall be deemed guilty of treason, and, upon conviction, suffer death by hanging.

SEC. 35. Any person, who shall fraudulently alter, mutilate, destroy, or unlawfully open, after being sealed up, any returns of election, shall be deemed guilty of a felony, and, upon conviction, be imprisoned for not less than one year, nor exceeding five years.

# CHAPTER IX.

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## AN ACT RELATING TO ADMINISTRATIONS.

<b>ART. I.</b> Letters of Administration, Executor and Guardianship. II. Relating to Minors.	<b>ART. III.</b> Relating to Wills. <b>IV.</b> Descent of property.
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### ARTICLE I.

#### LETTERS OF ADMINISTRATION, EXECUTOR AND GUARDIANSHIP.

SEC. 1. The power of granting letters of administration upon estates of intestates, letters of executorship, and letters of guardianship for minors and other persons, for whom the appointment of guardians may be provided for by law, shall be vested in the judge of the district court of the district wherein such intestate, testator, minor or other person may have, or may have had, an usual place of residence. And the judge shall be authorized and required, when necessary, to hold a special term of his court, at the usual place of holding court, for the purpose of hearing and determining the claims of contestants for administration, executor or guardianship, and shall notify all the parties in interest, of the time and purpose of holding such court, and shall determine the issue, as shall be most conducive to the interest of the parties, and conformable to the provisions of law.

SEC. 2. "Whenever any guardian of minor, or orphan children shall move without the limits of the Cherokee Nation, all his or her rights and authority, as such guardian, shall cease: and the judge of the District, wherein such guardian held the appointment, shall, upon the information that such guardian has moved beyond the limits of this Nation, immediately appoint some other competent and responsible person to act as guardian in the place of the guardian so disqualified.

SEC. 3. None of the rights of any minor or orphan shall be impaired, in any estate or effects that such minor or orphan may be justly entitled to, by the removal of any guardian without the limits of this Nation." (December 5th, 1877.)

SEC. 4. In granting letters of administration, executorship, or guardianship, the following order shall be observed, to-wit: 1st. In granting letters of executorship, the persons, if any, named in the will, shall be preferred. 2d. In granting letters of guardianship or letters of executorship upon estates of testators, in whose wills no executors are named, and letters of administration upon estates of intestates, the father or husband first, and mother or wife next, shall be preferred. 3d. Such person as may be selected by the distributees, or a majority of them, and recommended by them in writing to the judge, shall be preferred; and, in such cases, the interests of minors, and such others as require guardianship, shall be represented by guardians. 4th. The judge may select from among those who stand in the same degree of relationship, by

blood, to the deceased, or to such minor or other person, such person as in his judgment is most competent to discharge the duties required of him. 5th. If no person, entitled as above to administer, should apply for letters within sixty days after the death of any person, administration shall be granted to any creditor, or other suitable person making application therefor; no person applying as above, the judge shall appoint some suitable and competent person to take charge of the estate and settle up the same according to law; *provided*, no person, being a minor, or of unsound mind, or who has been convicted of felony, or who may be undergoing imprisonment, shall be appointed administrator, executor or guardian. And, *provided, further*, that if any person in the foregoing orders shall be by law incapacitated, or shall fail to give bond, as required by law, the person entitled in the next order following shall be preferred.

SEC. 5. Every administrator, executor, or guardian, when obtaining letters, shall file with the judge, granting such letters, a temporary bond, with surety to his satisfaction, given according to law, in a sum double the probable amount of the property to come into his hands by virtue of his letters, and shall be required then to take an oath, a certificate of which shall be endorsed upon the letters by the judge, to render a full and complete schedule of all the property, and to faithfully conform to all the requirements of law; and the judge shall thereupon appoint three suitable and competent persons, whose duty it shall be to appraise and

make out a schedule of the property of such estate, minor or other person, which schedule shall give, in detail, the description and valuation of such property, be certified to on oath, and be signed by the appraisers, and be, by the clerk of the district, placed upon record, as required by law.

SEC. 6. The failure of any administrator, executor, or guardian to file a schedule of the property in his possession by virtue of his letters, with a permanent bond in a sum double the amount of the property, with surety, as required by law, when required by the judge so to do, and within thirty days after the granting of his letters, shall be sufficient cause for the revocation of the same; and when, by the death of any surety, or his removal from the Nation, or by his subsequent insolvency, any bond shall, in the opinion of the judge, be insufficient, he shall require other good and sufficient surety; and, upon failure of any administrator, executor or guardian to give such additional surety within the time required by the judge, his letters shall be revoked. No administrator, executor, or guardian shall be allowed to sell or dispose of an estate or ward, until he has filed a permanent bond, and rendered a schedule of the property.

SEC. 7. It shall be the duty of every administrator, executor and guardian, at least semi-annually, at the regular terms of the district court, and oftener if required by the judge, to report to him, under oath, an account of his administration, executorship or guardianship, which account shall show the disbursements of the

administrator, executor or guardian, every item of which, and the amount thereof, shall be distinctly stated; it shall show the receipts of money or property, and from what source the increase or decrease of property, and cause of such increase or decrease, if any; and, upon failure of any administrator, executor, or guardian so to do, his letters shall be revoked, unless a reason satisfactory to the judge be given for such failure.

SEC. 8. Letters of administration, executorship, or guardianship, shall not be revoked unless for good and sufficient cause; and, whenever application is made by any person for the revocation of such letters, it shall be done in writing to the judge of the court granting the letters, and shall, as concisely as possible, set forth the grounds or reasons of complaint, and the administrator, executor or guardian, shall be notified thereof, and be required to appear and answer thereto, at such time and place as the judge may appoint. And the judge shall hear and determine the complaint upon the statement of the parties, and such other evidence as may be submitted by either, in such manner as the right and justice of the cause may appear unto him. And if the cause be deemed sufficient, he shall remove such administrator, executor, or guardian, and immediately appoint another; but all the lawful acts of any administrator, executor or guardian, removed by any judge, shall be valid and binding upon his successor; *provided*, that whenever letters of administration, executorship or guardianship, are revoked for any cause, not expressly

permitted by law, the action of the judge revoking such letters may be inquired into, and confirmed, or set aside by any court in a suit at law brought before it, and whenever such action of the judge is a subject of controversy.

SEC. 9. It shall be the duty of every administrator or executor, within ten days after filing his permanent bond, to give written notice of his appointment by posting the same, in Cherokee and English at the court house and two other public places in the district, or, in like manner, in the *Cherokee Advocate*, three several times, at intervals of one month, and to certify the same to the clerk, to be by him recorded. And every person having a claim against such estate shall present the same, on oath, to the administrator or executor, within six months after such public notice is given, otherwise such claim shall be void and not recoverable by law; *provided, however,* if such administrator or executor die, or be removed within the six months, such claim may be presented to the judge granting the letters, to be by him turned over to the person next appointed.

SEC. 10. Every administrator, executor, or guardian shall be required to collect all debts or claims due the estate or ward, and for this purpose, he may, as such, institute and prosecute suits at law, for their recovery; and he may, also defend suit instituted against him as such, before any of the courts of this Nation, and for this purpose he may employ counsel in such cases, wherein he is a party, *provided,* the whole amount of

fees, in any case, paid to attorneys, shall not exceed ten per cent. of the amount in controversy.

SEC. 11. Every administrator and executor shall assume all the relations of the deceased person upon whose estate he may have obtained letters, and none other. In all suits at law, instituted by or against such deceased persons, such suits shall be prosecuted or defended, in every particular, as if no demise had occurred; *provided*, that, if at the next term of the court, after the death of such person, there be no administrator or executor of his estate appointed, the judge of the court, in which such suit is there pending, shall continue the same to the term following.

SEC. 12. No debts, or claims, against any estate shall be paid, unless approved by the judge, or upon a decree of court, and not until after the expiration of the six months' notice required to be given, except the necessary funeral expenses of, and medical attendance upon, such deceased persons. After the expiration of the six months' notice, and, if the condition of the estate will permit, all the lawful demands against such estate shall be paid out of its effects liable to such payment, and if the estate be insolvent, the demands shall be paid "*pro rata*" to the creditors, and, if necessary to make such "*pro rata*," the property shall be sold at public sale, after twenty days' notice of the time and place of such sale, by posting the same in English and Cherokee at the court house and two other public places in the district, or, in like manner, in the *Cherokee Advocate* for two issues. And when the

demands against an estate are paid, as above, and as soon thereafter as the condition of the estate will allow, the residue of the property shall be distributed, according to law, to the heirs, males at twenty-one, and females at eighteen years of age; *provided, however,* if any heir shall lawfully marry before the ages hereinbefore named, such heir shall be deemed of lawful age, and be entitled to receive the share due him. The shares of minors shall be paid to their guardians, who shall be required to preserve and pay over the same to their wards, unless otherwise requiring guardianship, as provided above.

SEC. 13. The judge of the district court shall appoint to be selected as guardians for minors, guardians for idiotic, blind, and insane persons; but, before such appointment is made, he shall cause such person to be examined, by one or more physicians, as whether such cause for appointment exists or not; and, if so, he shall make the appointment upon the certificate of such physician to that effect; *provided,* if no physician is to be had to make the examination, the judge shall appoint three disinterested and discreet persons to make such examination, who shall certify to the same on oath.

SEC. 14. Guardians of minors, may, with the approval of the judge of the district court, apply to the support and education of his ward in the schools of this Nation such portion of his property as may be necessary for that purpose; and any money or property, so applied, shall be charged to such ward as so much of his share received.

SEC. 15. Every administrator, guardian, or executor, shall, on the final and satisfactory settlement of the business of the estate or ward with the judge of the district court, be entitled to eight per cent. of the value of property that may have been in his possession by virtue of his letters; *provided, however,* if any administrator, executor or guardian be removed, and such removal be sustained, he shall forfeit all of his fees.

SEC. 16. All improvements shall be exempted from the payment of debts against any estate, and in the administration of estates where there is a surviving wife or husband, or minor child or children, all the property exempted by law from execution shall likewise be exempt from the payment of debts against an estate, and shall be at once turned over to the surviving parent or guardian for use of the family.

SEC. 17. It shall be the duty of every administrator, guardian, or executor, with the approval of the judge, to sell or dispose of, for cash, or other property, all property so perishable in its nature that it cannot be preserved without material loss, or at an expense disproportionate to its worth; *provided,* such property, so sold, shall be first valued and placed upon the schedule as required by law; and the administrator, executor, or guardian, shall report the same in his next settlement, with the kind and value of property received in lieu of it.

SEC. 18. Every administrator, executor or guardian, who shall fraudulently withhold from appraisement any property belonging to an estate or ward, or every

appraiser who shall corruptly or fraudulently value such property, shall be deemed guilty of perjury, and upon conviction, shall be punished as by law provided.

SEC. 19. Every administrator, executor, guardian, or other person, who shall fraudulently and corruptly secrete, or destroy, or mutilate, any will or other instrument of writing of value, belonging to any estate or ward, shall be deemed guilty of felony, and, upon conviction, be imprisoned for not less than one, nor exceeding three years, and be fined in double the amount of damages sustained by the party injured.

## ARTICLE II.

### RELATING TO MINORS.

SEC. 20. Any contract whereby the title to, or possession of, property is conveyed or transferred, to which contract a minor shall be a party, shall not be lawful and is hereby forbidden, except the consent of the guardian of such minor, should there be one appointed, and if not, of the parent of such minor, be obtained previous to the making of such contract. And any adult person who shall enter into any contract, forbidden in this section, shall, for such offense, forfeit, for the benefit of the minor with whom such contract is made, twice the full value of the consideration of such contract on part of the minor, upon suit hereby authorized to be instituted by the parent or guardian.

SEC. 21. When property of any kind shall be given or granted to any minor having no guardian, such deed

of gift, or grant, shall be recorded in the office of the district clerk of the district in which the giver shall reside, with the conditions and requirements, if there be any, in reference to the grant; and no title, involved in any property conveyed or granted to a minor, shall pass to the minor during the life of the grantor except the deed shall be recorded, and then only from the date of the record thereof; *provided*, that no grant or gift of any property whatever to a minor by an adult, under the provisions of this section, shall exempt the property so granted from any liabilities to which such property would be lawfully subject had no such grant been made.

SEC. 22. The guardian shall have the control and disposal of the ward, with the advice and consent of the district judge who shall appoint him; and, for any gross neglect or mistreatment of any ward the guardian shall be removed from his trust, and shall be also held responsible upon his bond to the amount of injury inflicted, recoverable upon suit by the guardian next appointed, or by the ward upon his coming of age, or by his administrator.

SEC. 23. Whenever a minor shall die, and leave property or effects of any value in his own right, his estate shall be administered upon, appraised, and divided among heirs, as provided by law in case of the decease of an adult. The guardian of any deceased minor shall have, in all cases, the preference of administering, upon his application for letters within the time prescribed by law.

SEC. 24. No claim shall be paid by an administrator or executor of an estate, unless he shall personally know that the debt is just, or unless he shall have good and satisfactory reasons to believe that a recovery of the debt would follow a suit at law for the same. Any administrator, who shall settle doubtful claims out of the effects of an estate, shall be liable upon his bond to the estate, to the amount of the doubtful claim settled, upon suit brought by any heir or creditor.

### ARTICLE III.

#### RELATING TO WILLS.

SEC. 25. Every person of lawful age, being at the time of sound and disposing mind, shall have the right, by last will, to dispose of all his improvements and other property that he may die possessed of. All written wills shall be signed by the testator, or by some other person in his presence and by his direction, and be witnessed by at least one person not interested in the disposition of the property made by such will; and all verbal wills shall be proven by at least two persons not interested in the disposition of the property made by such will, and shall be made during the last sickness of such testator, or under circumstances dangerous to life, and which resulted in his death, and shall be proven and recorded within thirty days of the death of the testator.

SEC. 26. All wills shall be recorded, as by law

required, by the clerk of the district wherein the testator may have had an usual place of residence.

SEC. 27. After the payment of the debts, as provided by law, the residue of the property and effects shall belong to the persons to whom, and in the manner, devised; *provided*, that legitimate children born to the testator after the making of the will, shall inherit equally with those provided for by the will; and *provided, further*, that if no provision be made in such will for any legitimate minor child, such child shall be entitled to such share of the property, as he would have inherited according to law if there had been no will.

SEC. 28. No written will, nor any provision thereof, shall be revokable, but by the testator destroying, cancelling, or obliterating the same, or causing the same to be done in his presence, or by a subsequent will or declaration in writing, made and executed in manner set forth in the preceding section; *provided*, no will made by any person not of lawful age, unless self-dependent, and having no guardian at the time of making such will, nor by any person not of sound and disposing mind at the time of making such will, nor by any person who may be "*non compos mentes*," shall be valid.

SEC. 29. Any person interested, may, at any time within one year, by suit instituted for such purpose before the court having jurisdiction of the amount at issue, contest the validity of any will admitted to record, with proof satisfactory to the judge; and the

issue shall be made up and tried as other issues to determine whether the writing produced be the will of the testator or not, and the verdict of the court shall be final between the parties to the issue; but if no person shall appear within one year after the record of such will, it shall be valid and forever binding, saving to minors and persons "*non compos mentes*," one year to contest such will, after the removal of their disabilities; *provided*, that in case of a concealed fraud, the limitation, provided in this section, shall begin to run, at, and not before, the time when such fraud shall be, or with reasonable diligence might have been, first known or discovered.

#### ARTICLE IV.

##### DESCENT OF PROPERTY.

SEC. 30. Whenever any person shall die possessed of property not devised, the same shall descend in the following order, *to-wit*:

1st. In equal parts to the husband or wife, and the children of such intestate, and their descendants; the descendants of a deceased child, or grand child, to take the share of the deceased parent equally among them.

2d. To the father and mother equally, or to the survivor of them.

3d. In equal parts to the brothers and sisters of such intestate, and their descendants; the descendants

of brothers or sisters, to take the share of the deceased parent equally among them.

4th. When there are none of the foregoing persons to inherit, the property of such deceased person shall go to his next or kin by blood. Kindred of the whole and half blood, in the same degree, shall inherit equally.

5th. The property of intestates, who have no surviving relative to inherit as above, shall escheat to the treasury of the Nation, to be placed to the credit of the orphan fund.

# CHAPTER X.

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## AN ACT RELATING TO EDUCATION.

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### ARTICLE I.

#### RELATING TO EDUCATION.

SEC. 1. For the purpose of maturing and adopting the best possible system of education for the youth of the Nation, and for the purpose of devising the best means for placing a liberal education within the reach, as nearly as possible, of all of the children of the Nation, and enabling those who speak only the Cherokee language, to acquire more readily a practical knowledge and use of the English language, there shall be permanently established a board of education, with such powers as shall be conferred by law.

SEC. 2. "The board of education shall consist of three persons of liberal literary attainments, and free from immoral or intemperate habits, who shall be nominated by the Principal Chief, and confirmed by the Senate; one shall be appointed for one year, one for two years, and one for three years, and every year after, one member of the board shall be thus appointed for three years.

SEC. 3. The board shall, as soon as practicable after appointment, proceed to organize, by electing one of their number president, and one secretary, who shall hold their offices during the pleasure of a majority of the board.

SEC. 4. The regular meetings of said board shall be twice a year, but the president may call a meeting at any time deemed necessary.

SEC. 5. The powers and duties of the board shall be as follows: To adopt rules and regulations not inconsistent with the laws of the Cherokee Nation, for its own government and for the government of the seminaries, orphan asylum, and primary schools; to prescribe and enforce rules for the examination of teachers, and for admission of pupils to the seminaries; to prescribe and enforce courses of study in the seminaries, orphan asylum, and primary schools; to prescribe and enforce a series of uniform text books in all the schools; to grant or revoke, for immoral, intemperate or unprofessional conduct, certificates of all grades; to remove or discontinue any primary school which does not maintain a daily average of "thirteen pupils during the winter term, and of fifteen during the summer term." (Dec. 10th, 1880.) To keep a record of its proceedings, and to authenticate its acts by the use of a seal; to make requisition on the executive department for funds as they may be needed for the support of the seminaries and orphan asylum, as hereinafter provided; to appoint teachers for the seminaries, orphan asylum, "and the primary schools,"

(Nov. 28th, 1879) under the regulations adopted by said Board.

SEC. 6. For educational purposes, the Nation shall be divided into three districts, to be known as the first, second and third school districts. The first district shall embrace Coo-wee-skoo-wee, Delaware and Saline; the second, Tahlequah, Going-snake and Flint; the third, Sequoyah, Illinois and Canadian districts.

SEC. 7. The board shall assign one of its members to each of the three school districts, who shall act under instructions of the board.

SEC. 8. The board of education shall have complete supervision and control of the orphan asylum, the male and female seminaries, and of the educational interests of the Nation at large, subject to such restrictions or direction as may be imposed by law.

SEC. 9. All funds needed for the support of the seminaries and orphan asylum shall be drawn directly from the treasury of the Cherokee Nation by warrant of the Principal Chief, based upon the requisition of the board of education, signed by the president and secretary of the board, and shall be accompanied by an itemized estimate, showing the cause and purpose of the expenditure.

SEC. 10. The teachers in the seminaries and orphan asylum, shall be paid by warrant, based upon the certificate of the president and secretary of the board of education. Primary school teachers shall be paid by warrant of the Principal Chief, based upon the

certificate of a majority of the board of directors, and approved by the board of education.

SEC. 11. It shall be the duty of the president of the board to preside at all meetings of the board, and he shall have an equal voice with his associates in determining all questions submitted for action of the Board, sign all requisitions for funds, and perform such other duties as may be imposed upon him by law or by the board.

SEC. 12. It shall be the duty of the secretary to keep a correct record of all transactions of the board in a suitable book for the purpose, which book shall be open to inspection to any one who chooses to do so; to report to the Principal Chief on or before the 15th of October in each year, a statement of the condition of all the schools in the Cherokee Nation; to accompany his report with a tabular statement, showing the number of schools in operation—number of children attending the same—the amount of unexpended appropriation, if any; to make estimates of funds required for support of schools for ensuing year, that the National Council may have information upon which to base an appropriation; to furnish blanks necessary to enable teachers and directors to do their duty; when necessary to purchase text books, and distribute the same upon requisition of the teacher, approved by the board of education.

SEC. 13. The board of education shall visit each seminary and the orphan asylum, at least twice a

term, and carefully to examine into the management of the same, and perform such other duties as may be imposed by law.

SEC. 14. The schools of this Nation shall be deemed as consisting of two (2) classes, to be styled and known as Primary and High Schools. The primary schools now in operation, and others of like grade that may be hereafter established, to be known as the primary, and the two Seminaries now in operation, as the High Schools.

SEC. 15. They shall fix an age at and above which children may be admitted into the orphan asylum, to the primary departments of the seminaries, and to the district schools; but all youth of the male sex under twenty-one years of age shall have the right to enter the seminaries and prosecute their studies therein, for the regular term of four years; *provided*, that such youth shall be required to comply with such conditions as shall be prescribed by the board of education in pursuance of law.

SEC. 16. The full term of study in the primary department of the seminaries, shall be three years, that in the seminaries, four years. In re-opening the male seminary, not exceeding fifty boys may be admitted the first year, after which the board may determine the ratio, and time of admission to the male and female seminaries, and to the primary departments of the same.

SEC. 17. The number of students in the Primary departments of the Seminaries shall be determined by

the Board. No greater number shall be admitted than can be maintained without trenching too heavily upon the funds.

SEC. 18. Each of the members of the board of education shall be required, within one year after the beginning of the regular term of office, to ascertain, and report to the board of education, the whole number of children over seven and under twenty-one years of age in his school district, and the number in each of the three districts of the school district under his superintendence. Such report, or census, shall state the number of each sex, language spoken by them, and their nationality; and also the number of orphans without parents and with one parent. They shall visit semi-annually all schools under their immediate supervision, and report thereon, at the close of each school term, to the Principal Chief, which reports, or a transcript thereof, shall be, with the report of the secretary of the board of education, furnished annually to the National Council, within ten days after the organization of the regular session thereof.

SEC. 19. The board of education shall furnish tuition, clothing, board and lodging, to children of the primary department gratuitously, and shall have full control of such children while attending school, and until they shall have completed their term of study. They shall furnish, gratuitously, tuition only, to other pupils attending the seminaries, but shall provide board at actual cost, and no more, such pupils being re-

quired to provide their own bedding and clothing. The board, may, however, make exception in favor of such youth as are unable to pay for their board, and they shall be required to furnish their clothing and bedding only.

SEC. 20. In order to inculcate habits of industry among pupils attending the boarding schools now in operation, or to be hereafter put into operation, the board of education shall have authority to declare such schools to be *industrial or manual labor boarding schools*; and shall, whenever deemed expedient, provide the necessary means for promoting the agricultural and mechanical industries in such schools.

SEC. 21. The Board of Education shall constitute the Board of Examiners, and shall examine all applicants for positions as teachers, as to their scholarship, moral character and fitness for teaching, and grade the same according to the standard fixed by said Board; Provided, however, that all persons who shall finish the present normal course of either Seminary or Orphan Asylum, shall be entitled to a permanent first class certificate, which certificate, however, shall be subject to revocation for intemperate, immoral or unprofessional conduct.

SEC. 22. The Board of Education shall, as soon as practicable, appoint to each primary school, three respectable citizens as a Board of Directors, who shall hold their office during good behavior, but shall not be entitled to any compensation.

SEC. 23. The duties of said Board of Directors

shall be as follows: To manage and control the school property, see that provision is made for taking care of school books and other school material, locate the school house in the neighborhood, superintend its erection and repairs. To suspend or expel pupils for misconduct, to enforce the course of study, to visit the schools at least twice during each term, to certify to the length of time the teacher has taught, for the information the Board of Education.

SEC. 24. A school month is construed and taken to be twenty school days, or four weeks of five days each. (December 7th, 1877.)

SEC. 25. "The board of education are required to visit all the schools in their respective districts at least once during each term," (Dec. 1st, 1879,) "and, in case of failure to comply with this requirement, it shall be the duty of the Principal Chief to withhold from the salary of any member, the amount of ten dollars for each school he fails to visit; and it shall be the duty of every teacher to report to the Principal Chief every failure of compliance to this requirement." (Dec. 10th, 1880.)

SEC. 26. "Before any school is opened or located, it shall be the duty of the patrons to provide a suitable library, with lock and key, so that the same can be securely closed, and used for the purpose of preserving the books and stationery belonging to the school. It shall be the duty of each teacher, at the close of each day, to receive the books and stationery, and place the same in the library for safe keeping. Teachers shall

be held responsible for all books and stationery that may be placed in their charge." (Dec. 10th, 1880.)

SEC. 27. "A school year shall consist of two terms, one of twenty weeks and the other of sixteen weeks; the summer term to begin the second Monday in February, in each year, and consist of twenty weeks, and the winter term to begin on the first Monday in September, in each year, and consist of sixteen weeks." (Dec. 10th, 1880.)

SEC. 28. "In the employment of teachers for the high and primary schools, qualifications being equal, preference shall be given to teachers who are citizens of the Nation." (Dec. 1st, 1879.)

SEC. 29. "From and after the close of the present term, the pay of the teachers of the primary schools shall be thirty-five dollars per month.

SEC. 30. From and after the close of the present term of the primary schools, they shall be limited to one hundred, and be apportioned among the several districts as follows:

Cooweeskoowee District—Sixteen schools—No. of children, 874.

Delaware District—Fifteen schools—No. of children, 806.

Saline District—Seven schools—No. of children, 384.

Going-snake District—Thirteen schools—No. of children, 735.

Flint District—Eight schools—No. of children, 420.

Tahlequah District—Fourteen schools—No. of children, 757.

Illinois District—Eleven schools—No. of children, 595.

Sequoyah District—Seven schools—No. of children, 372.

Canadian District—Nine schools—No. of children, 461." (Dec. 10th, 1880.)

SEC. 31. The directors of the primary schools shall not permit the children of any person, who is not a citizen of the Cherokee Nation, to receive instruction in any school supported at the expense of the school fund of the Nation. (December 7th, 1877.)

SEC. 32. From and after the third Monday in November, 1881, the pay of the members of the board of education shall be six hundred dollars annually, each. (December 10th, 1880.)

SEC. 33. "The pay of teachers of the Male and Female seminaries shall be as follows:

Principal teacher,	- - - - -	\$800 00
Assistant teachers each,	- - - - -	500 00
Primary teacher,	- - - - -	300 00

(December 10th, 1880).

SEC. 34. The boarding and clothing of the primary students, and the boarding of teachers and students of the high school department shall be done by contract with the lowest responsible bidder, after bids shall have been advertised for thirty days in the Cherokee Advocate. The party, so contracting, shall give bond to the satisfaction of the board of education approved by the Principal Chief, for the faithful performance of such contract, which bond shall state in detail every performance required of such contractor.

SEC. 35. The principal teacher of the Female seminary shall be of the same sex with that of the pupils thereof. (December 10th, 1880.)

SEC. 36. "The pay, on account of boarders at the Male and Female seminaries, shall be in cash, and paid to the principal teacher, who shall pay the same monthly to the secretary of the board of education. No boarder shall be charged more than the minimum cost of board." (December 10th, 1880.)

# CHAPTER XI.

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## AN ACT IN RELATION TO THE ASYLUM FOR THE BLIND, INSANE AND OTHERS.

**ART.** I. Organization.  
II. Duties of Trustees.  
III. Duties of Steward.

**ART.** IV. Admission of Persons.  
V. Miscellaneous Provisions.

### ARTICLE I.

#### ORGANIZATION.

SEC. 1. The board of trustees for the asylum for the insane, and indigent, blind, deaf and dumb, and decrepit, heretofore established by law, shall consist of the Principal, Assistant Principal Chief, Treasurer and three trustees to be appointed by the Principal Chief, by and with the advice and consent of the senate, and whose term of office shall expire with that of the Principal Chief appointing them. The Principal Chief shall be "*ex officio*" president of the board, and the national treasurer shall be "*ex officio*" treasurer thereof. A majority of the board shall constitute a quorum to transact any business connected with the asylum; *provided*, it shall require the affirmative vote of a majority of the whole board, to repeal or change, alter or amend, any by-law of the board, or to remove any officer appointed by the same. The board shall appoint one of their number secretary.

## ARTICLE II.

## DUTIES OF TRUSTEES.

SEC. 2. The trustees shall manage and direct the affairs of the asylum, and make all necessary by-laws and regulations for the control and government of said institution, not inconsistent with the constitution and laws of this Nation.

SEC. 3. They shall appoint one steward, and such other officers and assistants as may, from time to time, be necessary.

SEC. 4. The board of trustees shall keep a fair and full record of all their doings, and shall maintain an effectual inspection of the asylum, for which purpose one of their number shall visit the institution at least once a month, and they shall hold a meeting of said board at the institution once every three months, and special meetings may be called in the manner prescribed by the by-laws; and the secretary shall, on or before the 15th day of October, of each year, make a true report of the actual condition of the asylum to the Principal Chief, for the information of the National Council.

SEC. 5. The board of trustees shall, until otherwise provided by law, fix and determine the compensation of the steward and other officers and assistants, as they may deem necessary for the just and economical administration of the affairs of the asylum.

SEC. 6. The board of trustees shall furnish such bedding and clothing, as may be necessary, to such

inmates of the asylum as may be unable to obtain the same, and shall cause to be procured, and prepared under the direction of the steward, such food as may be suitable to the wants and conditions of the several inmates.

### ARTICLE III.

#### DUTIES OF STEWARD.

SEC. 7. The steward shall be required to give bond, with surety, according to law, in such sum as may be required of him by the board; and his term of office shall be the same as that of the board appointing him, unless sooner removed. He shall have the general superintendence of the buildings, grounds and farm, with their furniture, fixtures and stock, the direction and control of all persons thereon, subject to the by-laws and regulations of the board of trustees; he shall daily ascertain the condition, and, under the direction of the medical superintendent, shall administer to the sick and others such treatment as may be by him prescribed; he shall also be required to see that all the rules and regulations for the discipline and good government of the institution are properly obeyed and enforced; he shall keep a complete record of the name, age, sex, district, date of reception and departure from the institution, death, and from what cause, of each inmate; and he shall also keep a record of all his doings, and of the entire business and operations of the institution, to be kept regularly from day to day in

books furnished for that purpose, in the manner and to the extent required of him by the board, and report the same to the secretary of the board, by the first day of October of each year.

SEC. 8. The steward shall keep a regular account of disbursements made by him for the institution, take vouchers for the payments, and keep carefully, and file away all original bills of purchases made by him, under direction of the board, and settle his account with the treasurer as often as may be required of him by the board. His accounts shall always be open to the inspection of any member of the board; he shall be accountable for the economical use of all furniture, stores, and other articles provided for the asylum, and shall perform such duties as may be required of him by the by-laws, in the general superintendence and management of the affairs of the institution.

#### ARTICLE IV.

##### ADMISSION OF PERSONS.

SEC. 9. Every person applying for admission into the asylum, shall, by himself, guardian or friend, present to the steward an application, in writing, showing the cause of admission, and that he is destitute of the means of support, and that he has no relatives able, or willing, to be burdened with his support, and the same shall be certified to on oath by two respectable citizens, before the clerk of the district wherein such person may have resided last, whereupon such

person shall be admitted to the asylum by the steward, and reported to the board of trustees, at the next meeting, for their final action. The trustees may cause such applicant to be examined by the medical superintendent as to his mental and physical condition, and make such other inquiry, or cause to be made, as to his condition, as may be deemed necessary, and determine accordingly; *provided*, any person, who may be partially or wholly demented, shall be admitted into the asylum for treatment or confinement, upon application and proof being made of such insanity as above.

SEC. 10. In case the friends or relations of any lunatic shall neglect, or refuse, to place him in the asylum, and shall permit him to go at large, it shall be the duty of the judge of the district court wherein such lunatic may reside, or be found going at large, on the suggestion, in writing, of any citizen of the district, to order the sheriff to take charge of such person, and place him in the asylum, and the steward shall receive and provide for him until otherwise directed by the board.

## ARTICLE V.

### MISCELLANEOUS PROVISIONS.

SEC. 11. The trustees, appointed by and with the advice and consent of the senate, shall be paid each four dollars per day while in actual service, and the actual expense of the other members, while attending the meeting of the board, shall be paid by the Nation.

# CHAPTER XII.

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## MISCELLANEOUS ACTS.

ART. I	Drovers' Tax.	ART. XIV	Permits to hire citizens of the United States.
II	Trade and Intercourse.	XV	Intermarriage of White men and Foreigners.
III	Incorporating Town of Fort Gibson.	XVI	Arbitration of civil causes.
IV	Regulating Interest on Notes.	XVII	Minerals.
V	Establishing the Seat of Government.	XVIII	Dangerous Weapons.
VI	Recovery of Stolen Property.	XIX	Marriage and Divorce.
VII	Fixing Compensation of officers and other persons.	XX	Lawful Fences.
VIII	Fixing Places for holding elections.	XXI	Prohibiting the sale, and Restricting the Lease of Real Estate
IX	Attorneys.	XXII	Grist Mills.
X	Vacancy in office.	XXIII	Stray Property.
XI	National Newspaper.	XXIV	Licensed Traders.
XII	Military and Agency Reserve.	XXV	Intruders.
XIII	Publication of Penal laws.	XXVI	Liability of the Cherokee Nation to her own citizens.

## ARTICLE I.

### DROVERS' TAX.

SEC. 1. Every person, not a citizen of this Nation, engaged in driving stock through the Nation who shall keep such stock in the Nation a longer time than is necessary to pass through the Nation, shall pay to any of the sheriffs of the Nation, or their deputies, or other person duly authorized by the treasurer (for the benefit of the General Fund) the following tax: for beef, work, or stock cattle, except sucking calves, five cents each; loose horses, mules, jacks and jennies, five cents each, except sucking colts; sheep, hogs, and goats, one cent each, except sucking pigs, lambs, and kids, for

every week, or fractional part of a week, while such stock remains in the limits of the Nation.

SEC. 2. Stock may be received in payment of taxes, in case the drover is unable to pay ready cash, or, in lieu thereof, national warrants or certificates. And all stock so received shall be sold for the benefit of the general fund of the Nation, in such manner as the treasurer shall direct; and the person, collecting, keeping, and selling such stock, shall be entitled to fifteen per cent. in kind of all sales made and returned to the treasurer.

SEC. 3. Every sheriff, or person intrusted with the collection, care, and sale of stock under this act, shall keep certified records of all stock received in payment of taxes, and of all funds received upon sales thereof, and make returns of the same, quarterly, to the treasurer. They shall also promptly report all persons who shall be guilty of resisting, or of evading the enforcement of the same, to the treasurer, who shall adopt such remedial measures as he shall deem expedient.

SEC. 4. In all cases where a sheriff, or other person acting under lawful authority, has reason to believe that efforts are being made to evade the provisions of this act, by collusion of some citizen of the Nation with the owner of stock, such citizen claiming to be the owner, and grazing, or consenting to the grazing of stock, as his property, which belongs to a non-citizen—whether such non-citizen be under permit or not—such sheriff, or other person, shall require the claimant to

exhibit his bill of purchase, or establish, by witnesses, how he came into possession of the stock in question. If deemed necessary to arrive at the facts, he may put such claimant, or any other person supposed to be cognizant of the facts in the premises, upon oath, and question him, or them, as to the "*bona fide*" ownership of such stock. And in all such cases, if it appear that there has been a fraud attempted for the purpose of evading the revenue laws of this Nation, then, in that case, there shall be levied double the amount of tax which would otherwise have been done, and any cost which may attach to the investigation; and "one half of taxes so collected shall go to the officer collecting, and one half of the remainder to the party informing and producing sufficient testimony to prove the facts, and the remainder to the General Fund." (December 6th, 1879.)

SEC. 5. Every citizen of this Nation, who shall be cited to answer, on oath, questions as to the ownership of stock passing through or being grazed in the Nation, who shall refuse to answer, shall be liable to indictment for violation of the revenue laws of this Nation, and, upon conviction before any court of competent jurisdiction, be deemed guilty of a misdemeanor, and be fined in any sum, at the discretion of the court, not exceeding five hundred dollars, payable, one half to the person prosecuting and recovering the same, and the residue to the general fund of the Nation.

SEC. 6. The term, "driving stock through this Nation," shall be deemed to mean traveling through the

Nation on a direct traveled route towards the point of destination, at a rate of not less than fifteen miles per day for horses, mules, jacks and jennies, ten miles per day for cattle, and five miles per day for hogs, sheep and goats; *provided*, that unavoidable detention by high water shall not be construed as a violation of the provisions of this act.

SEC. 7. Citizens of the Osage, and other Nations adjacent to this Nation, introducing or permitting their herds or flocks to range or graze upon the pasturage of this Nation, unless unavoidable and in small numbers, shall be liable to all of the provisions of this act; and the stock so running in this Nation, on the refusal of the owner to pay the lawful tax, may be seized by the lawful authority of this Nation and sold for such tax.

SEC. 8. Persons driving stock into this Nation for the purpose of wintering, grazing or feeding the same, shall be liable for the tax thereon, at the rates fixed in section first of this chapter.

SEC. 9. "Any citizen of the United States, buying stock in this Nation shall keep such stock under herd, and for all stock ~~brought into~~ the Nation, and kept there for a longer time than sixty days, shall pay the same tax as is provided for other stock grazing in the Nation, not the property of Cherokees." (Dec. 6th, 1879.)

## ARTICLE II.

TAX ON STOCK GRAZING UPON CHEROKEE LANDS WEST OF  
THE 96TH MERIDIAN.

SEC. 10. For the purpose of facilitating the collection of revenue in that portion of the Territory, belonging to the Cherokee Nation, and situated west of the Arkansas river, the following schedule of rates of taxation is adopted, and authorized to be levied and collected by the treasurer of the Cherokee Nation, to-wit:

1st. For horses, jacks, jennies, mules and horned cattle, two years old and over, for the term of twelve months—forty cents per head.

2d. For same, six months—twenty-five cents per head.

3d. For the same, three months—fifteen cents per head.

4th. For horses, jacks, jennies, mules and horned cattle, one year old, or less than two years, for the term of twelve months—twenty-five cents per head.

5th. The same, for six months—fifteen cents per head.

6th. The same for three months—ten cents per head.

7th. For each and every head of sheep, for twelve months—fifteen cents per head.

8th. For the same, six months—ten cents per head.

9th. For the same, three months—six cents per head.

10th. For all horses, jacks, jennies, mules and cattle, for any term less than three months—ten cents per head shall be collected.

SEC. 11. For all revenue collected west of the said meridian, the treasurer and his assistants shall be allowed twenty per cent.

### ARTICLE III.

#### TRADE AND INTERCOURSE.

SEC. 12. Every person transacting, or proposing to transact a mercantile business in the Cherokee Nation, shall make application, and receive license, for that purpose from the National Council. Such applicant shall make affidavit setting forth the name and style of the party or firm, and of every member or partner thereof, the place where he or they design to trade, and the nature of the business or merchandise; and shall pay into the general fund of the national treasury, on the receipt of such license, the sum of one-fourth of one per cent. on all bills of purchases, and shall continue to pay at the same rates, and at the beginning of each quarter thereafter, for all new or additional bills of goods received and offered for sale.

SEC. 13. Every person, who shall attempt to trade or otherwise dispose of merchandise, goods or wares, without previously obtaining a permit or license, shall be fined, on conviction thereof, before a court of compe-

tent jurisdiction, in any sum not less than one hundred dollars, nor exceeding twenty thousand dollars, for each and every such offense, at the discretion of the court; *provided*, that the treasurer may issue license to a citizen or citizens of the Nation, only when the National Council is not in session, on the payment of the proper tax, and upon compliance with the requirements of this act; which license shall be good until the adjournment of the session of the National Council next ensuing.

SEC. 14. Should it appear that any false affidavit has been made, either by omitting to name or misnaming any principal or partner to a mercantile firm, or by rendering any false invoice of goods, or by suppression of, or by failure to render, an invoice, then, and in that case, the person, so falsely representing such firm, shall be deemed guilty of perjury, and be proceeded against accordingly.

SEC. 15. The executive clerk shall, at the close of each annual session of the National Council, furnish to the treasurer a full and correct list of all licenses to trade, granted under this act, with all the names of each firm; and the treasurer shall keep a correct record of all such licenses, together with such as he may grant between the annual sessions of council, showing to whom issued, the nature of the business, and the place or places where such parties may trade.

SEC. 16. Every peddler or trader, entering the Nation on foot, horse-back, or in wagons or otherwise, with trinkets, jewelry, books, pictures or other prints, or with merchandise of whatever description, shall, be-

fore offering such effects for sale, obtain from the treasurer, or from the district clerk of the district in which he proposes to begin to sell, a written license or permit for that purpose. Such peddler or trader shall produce, for the information of the treasurer or district clerk, a full invoice or list, verified on oath, of his stock on hand, and pay a tax thereon at the rate of five per cent; *provided*, that sacred or moral literature, introduced for sale or gratuitous distribution by colporteurs, preachers of the Gospel, or by other agents of Christian societies, shall be exempt from taxation, *provided, also*, that improved stock and poultry, breadstuffs, meats, uncanned fruits and vegetables, grain for food, and seeds of every kind for planting, shall also be exempt from taxation.

SEC. 17. It shall be and is hereby made the duty of the sheriff of any district in which any person shall have violated the intent of this act, to seize such person with his merchandise, vehicles, team, store-house, or place of business, and them safely keep until the case can be reported and acted upon by the lawful authority, in conformity with the treaties and laws of this Nation, or with the intercourse laws of the United States.

#### ARTICLE IV.

##### INCORPORATING THE TOWN OF FORT GIBSON AND DOWNINGVILLE.

SEC. 18. The town reservation of Fort Gibson, as defined by law, and the country thereto adjacent for a distance not to exceed one mile from the boundary

thereof, for the purposes of this act, are hereby declared to be within the corporate limits of the town of Fort Gibson, and the inhabitants, citizens of the Cherokee Nation, residing within the limits aforesaid of said town, be, and they are hereby constituted a body politic and corporate, by the name of "Mayor and Town Council of the town of Fort Gibson," by which name they and their successors may sue and be sued, defend, and be defended, in all courts of law, in all matters and actions whatsoever, and may grant, purchase, receive, and hold property of any description, within the limits proper of said town, and may have, sell, and dispose of the same for the benefit of the town, and may do all other acts the same as natural persons, not contrary to the constitution of the Cherokee Nation.

SEC. 19. The corporate powers and duties of said town shall invest in one mayor and five members of the council, to be selected annually on the first Monday in December of each year, and to continue in office till their successors are elected and qualified, according to this act; and the said mayor and members of the council shall take an oath, before entering into office, to faithfully discharge their duties; and all qualified electors of the Cherokee Nation, residing within the corporate limits of said town of Fort Gibson, shall be entitled to vote in the election of the mayor and council, and a majority of the votes thus cast at an election shall be necessary to a choice of such officers, and no person shall be chosen mayor, or member of the council of the town of Fort Gibson, who shall not be of lawful age, and an inhabitant of said town.

SEC. 20. The mayor, or any member of the council that may be designated as such in the absence of the mayor, shall preside at the meetings of the town council, which shall be regulated by ordinance. He shall be the executive power of the said town of Fort Gibson and conservator of the peace within the corporate limits thereof, and shall have full power and authority to do, and perform, all things which may be lawfully done by a judge of the district in criminal matters, in accordance with the powers and authority herein conferred upon him.

SEC. 21. He shall be vested with full powers to enforce all ordinances passed by the council and approved by the mayor, or by the unanimous vote thereof, in case of his failure to approve the same within three days after the passage thereof and its presentation to him; to assess all fines for a violation of said ordinances, not exceeding the sum of fifty dollars, and to issue executions for the collection of the same. In case of murder, the mayor may cause the arrest of the perpetrator, and cause him to be turned over to the sheriff of the district for trial by any court having jurisdiction thereof; but, in all other offenses, misdemeanors, and crimes, the mayor and town council may have authority to arraign, hear, and punish the same, as may be prescribed by the laws of the Cherokee Nation, or the ordinances of said town; *provided*, that they shall not have the power to inflict, without trial by jury, punishment by stripes, or restrain a person of his liberty longer than two months. The said

mayor and town council shall also have jurisdiction in determining rights to property, or the collection of debts, where the amount involved shall not exceed the sum of twenty-five dollars.

SEC. 22. Any three members of the town council shall constitute a quorum to transact business, but a less number may adjourn, from time to time, and compel the attendance of absent members in such manner as the council may prescribe. The members of the town council shall judge of the election, qualifications, and returns of the mayor, and their own members, and determine rules for their own proceedings, which shall be recorded by the clerk of the town council in a journal to be kept for that purpose.

SEC. 23. The town council of Fort Gibson, shall have full power and authority to pass by-laws and ordinances to prevent, define, and remove nuisances, to restrain and prohibit all disorderly houses and gaming, the introduction and vending of intoxicating drinks; to establish and regulate a market; to cause the streets to be opened, repaired, and paved by the inhabitants and non-resident owners of houses, lots, and property in said town; *provided*, the tax imposed on non-residents, for said purpose, be in exact proportion to an *ad valorem* tax imposed on all property belonging to residents in, and situated within, the corporate limits of said town of Fort Gibson; to provide for the prevention and extinguishment of fires; to dig wells and erect pumps for the convenience of the inhabitants; to restrain all violence, obscenity, and disorderly conduct, within the limits of the town; to assess and collect

fines for a violation of the ordinances, and to collect a tax for defraying the expenses of the town and the improvements thereof; and generally, to pass such by-laws and ordinances for the regulation of the town as they may deem necessary, not contrary to the provisions of this act, or to the constitution of the Cherokee Nation. No tax shall be imposed by the town council of Fort Gibson, in any one year, on property within the town, at a higher rate than one-half of one per centum on the assessment value of the same, unless two-thirds of the persons therein interested shall, by vote taken for that purpose, authorize the same to be done.

SEC. 24. In order to carry into effect the provisions of this act, the town council of Fort Gibson shall have authority to provide by ordinance for the appointment or election, of one clerk, one constable, one assessor and collector of taxes, and such other officers as may be necessary; prescribe their duties, fix their compensation, and remove them from office. It shall also have authority to select, lay off, enclose, hold, and regulate by purchase or otherwise, twenty acres as a cemetery, and may prohibit the interment of bodies anywhere within the limits of said town.

SEC. 25. The clerk of the town council shall attend the mayor's courts, issue all writs and summons and other necessary papers, keep a true, full, and correct record of all arrests and trials, and of all town lots and ownership of the same.

SEC. 26. The mayor and town council of the town of Fort Gibson, shall cause to be made a re-survey of all that part of the original town not embraced within the military reserve. They shall in such re-survey retrace, as nigh as may be, the original streets and allies, cause the streets to be re-opened, all obstructions to be removed therefrom, and all blocks and lots to be staked with stone, iron, or durable timber, and to be lettered and numbered according to range and number; in consideration of which, every odd lot, the property of the Nation in such town reserve, shall be the property of the corporation of Fort Gibson, to be used for the benefit of such corporation.

SEC. 27. All other lots, the property of the Nation, may be sold, from time to time, by order of the mayor, and for the benefit of the general fund of the Nation, in such manner as shall be ordered by the Principal Chief; one third the price bid for lots so sold, shall be paid at the time of sale, and the residue in two equal annual installments.

SEC. 28. Upon final payment for any lot, the mayor shall issue a receipt in full to the purchaser, upon the presentation of which the Principal Chief shall execute the necessary conveyance to the owner. Lots not paid for, as herein provided, shall revert to the Nation, without recourse for payments previously made thereon.

SEC. 29. Writs for the arrest of persons, charged with a violation of the ordinances of the town corporation, may be served by any sheriff into whose district the person accused may have fled; and such sheriff, so arresting, shall safely deliver the prisoner to the constable of the town, to be dealt with according to the ordinances of the same.

SEC. 30. "The town of Downingville is likewise incorporated under the same conditions, with the same rights, privileges and restrictions, as provided in the above act, incorporating the town of Fort Gibson. (Nov. 27th, 1873.)"

#### ARTICLE IV.

##### REGULATING INTEREST ON NOTES.

SEC. 31. All promissory notes, executions, or judgments, payable in cash, shall bear interest at the rate of *ten per cent.* per annum; *provided, however,* that contracts may be made in writing, for the payment of a rate of interest as great as, but not exceeding, fifteen per cent. and all rates of interest exceeding fifteen per cent. shall not be recoverable by law.

#### ARTICLE V.

##### ESTABLISHING THE SEAT OF GOVERNMENT.

SEC. 32. The capital of the Cherokee Nation is hereby established at the town of Tahlequah.

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## ARTICLE VI.

## RECOVERY OF STOLEN PROPERTY.

SEC. 33. Property of any kind which shall be stolen, and afterwards found in the possession of a citizen of this Nation, may be demanded and summarily recovered by the owner or rightful possessor thereof by order of the district judge, directed to the sheriff, to restore the stolen property to the possession of the owner. Such order shall be issued either upon the sworn and positive statement of the owner alone, that he has seen and knows the property in question to be the same, which at a given time and place was stolen from him or from his possession; or upon other valid and substantial proof to that effect, which may be required by the district judge. But in all cases, before any order or writ of possession shall be issued, the demand shall be supported by evidence satisfactory to the district judge, and after notice be duly given to any innocent purchaser of the pendency of such investigation.

SEC. 34. All proceedings had, and testimony taken before any district judge in regard to property claimed to be stolen and demanded, in pursuance of the section preceding, shall be rendered and filed in his office, whether any writ of possession be awarded or refused; and such investigation shall be no bar to any suit which may be instituted by either party, for the recovery of the property in question.

SEC. 35. Any person who shall willfully and falsely claim any property from another as having been stolen from him or his possession, and falsely make oath in reference to such property to obtain possession thereof, shall be deemed guilty of perjury, and shall be punished accordingly.

SEC. 36. Should any person know or have cause to suspect that property belonging to him, and which has been stolen, is in the possession of another person, he may notify the possessor that within a fixed and reasonable time he will present his claim to such property before the district judge; and should the property be run off or secreted during that time, or withheld from the inspection of the claimant, by the possessor, or with his connivance, so that for that cause, the claimant shall be unable or unwilling to definitely identify it, such person so running, hiding, or withholding property, after notice to him given as provided, shall be deemed guilty of a felony, and be liable to prosecution as an accessory to the theft of the property so concealed or withheld, and, upon conviction, shall be punished accordingly.

## ARTICLE VII.

### **FIXING COMPENSATION OF OFFICERS AND OTHER PERSONS.**

SEC. 37. "From and after their present term of office, the salaries of the following officers, and pay of other persons in the employ of the Cherokee Nation shall be as follows, to-wit:" (Dec. 1st, 1876.)

Principal Chief.....	per annum	\$1,000 00
Assistant Principal Chief.....	"	600 00
Treasurer.....	"	1,000 00
Supreme Judges, each.....	"	600 00
Circuit Judges, each, for northern and middle Circuit.....	"	400 00
Circuit Judge, for southern Circuit	"	200 00
District Judges, each.....	"	200 00
Solicitors of Districts, each.....	"	200 00
Sheriffs, each.....	"	400 00
High Sheriff.....	"	500 00
Clerks of Districts.....	"	400 00
Executive Council, each.....	per day	4 00
Members of National Council, each	"	4 00
Clerks of National Council and Executive, each.....	"	4 00
Interpreters National Council and Executive, each.....	"	4 00
Editor of Advocate.....	per annum	600 00
Translator "	"	400 00
Clerk of Supreme Court.....	"	200 00
Guard, Jurors and Witnesses.....	per day	1 00
Board for man and horse.....	"	1 00
Board for man.....	"	50
Auditor of Accounts.....	per annum	300 00

SEC. 38. There is hereby annually appropriated out of the general fund, not otherwise appropriated, the sum of thirty thousand dollars, or so much thereof as may be necessary, to pay the salaries of the officers of the Nation, and the Principal Chief is authorized to draw warrants semi-annually for the same, in favor of the persons holding said offices.

## ARTICLE VIII.

### FIXING PLACES FOR HOLDING ELECTIONS.

SEC. 39. The following places in the several districts, are fixed and designated as precincts for the holding of elections:

## CANADIAN DISTRICT.

- 1st. Court House, at Webber's Falls.
- 2d. Thos. Monroe's School House.
- 3d. Watts' Spring School House.
- 4th. Briar Town School House.
- 5th. Brushy Mountain, Chalybeate Spring.

## COOWEEESKOOWEE DISTRICT.

- 1st. Sulphur Spring, on Dog Creek.
- 2d. White Spring.
- 3d. Riverside School House.
- 4th. Jessee Vann's.
- 5th. School House, one mile from Yellow Spring.
- 6th. Jim Davis'.
- 7th. Coodey's Bluff.
- 8th. Vinita.
- 9th. Silver Lake.

## DELAWARE DISTRICT.

- 1st. Charles Thompson's.
- 2d. Ned Barrow's.
- 3d. John Thompson's, on Grand River.
- 4th. Richard Taylor's.
- 5th. Dick Williams', on Neosho River.
- 6th. Hickory Grove School House.
- 7th. Ballard School House.
- 8th. Vinita, McClellan's Store.

## GOINGSNAKE DISTRICT.

- 1st. Reese Mitchell's, on Illinois River.
- 2d. Piney.
- 3d. Court House.

- 4th. Rabbit Trap, near Thos. Wilkerson's.
- 5th. Baptist Church, near Long Prairie.
- 6th. Prairie Grove School House.

FLINT DISTRICT.

- 1st. Court House.
- 2d. Broken Canoe's.
- 3d. Hungry Mountain School House.

SALINE DISTRICT.

- 1st. Rogers' Salt Works.
- 2d. Stand Rowe's.
- 3d. Sequoyah's, on Spring Creek.

TAHLEQUAH DISTRICT.

- 1st. Town of Tahlequah.
- 2d. Catron's Spring.
- 3d. Hunter Brown's.
- 4th. D. R. Hicks'.
- 5th. Yar-tun-na Vann's.
- 6th. Blue Spring.

SEQUOYAH DISTRICT.

- 1st. Sweet Town School House.
- 2d. Tobacco Will's.
- 3d. Little John Rogers'.

ILLINOIS DISTRICT.

- 1st. Fort Gibson.
- 2d. Court House; on Greenleaf.
- 3d. Court House, on Illinois River.
- 4th. Au-qua-ta-kee, on Vian Creek.

## ARTICLE IX.

## ATTORNEYS.

SEC. 40. Before any citizen shall be allowed to appear before the courts of this Nation for the purpose of practicing law for other parties, he shall obtain a license from the treasurer, or from one of the judges of the supreme or circuit courts, authorizing him to practice law from the date of such license.

SEC. 41. For a license to practice only before the district and circuit court judges in civil and criminal cases, the applicant therefor shall pay, in advance, five dollars; and for license to practice before all the courts and judges of this Nation ten dollars shall be paid in advance. The judges shall report annually to the treasurer, turning over all moneys, national warrants, or tickets that they may receive for licenses granted under this section; and any citizen, so obtaining license, shall have the privilege without further license or tax, and upon compliance with other conditions attached by law to such privilege, to continue to appear as practicing attorney at law before the courts of this Nation, in and before which his license authorize him to appear.

SEC. 42. Any person obtaining a license to practice law shall, before he is allowed to appear as an attorney in any court, take the following oath:

"I do solemnly swear, that I will, to the best of my knowledge and ability, support and defend all causes that may be entrusted to my care, and that in so doing, I will be true to the court and to the constitution and laws of the Cherokee Nation. So help me God."

SEC. 43. Any attorney, practicing before the district and circuit courts, may be removed by any circuit judge, and any attorney practicing before the district, circuit and supreme courts, may be removed by the supreme court, for any deceit, malpractice, or other gross misconduct, willful neglect of the interests of his client, or collusion with the opposite party, upon complaint and showing made to the judge or court, at any regular term of the court, by the aggrieved party, and upon due notification given to the accused of such charge, and shall moreover be liable in damages to the party injured; and the expenses of any inquiry, instituted by the court in reference to the removal of any attorney, shall be borne by the party at whose instance the expense shall be incurred.

SEC. 44. Parties may manage, prosecute, or defend their own suits, and by such counsel as they see fit to engage.

SEC. 45. Any attorney, recognized as such under the laws of any other Indian Nation, and in good standing where so recognized and admitted to practice law, may, on special occasions, and when vouched for by any member of the Cherokee bar in good standing, be allowed, by permission of the presiding judge, to appear before any of the courts of this Nation.

SEC. 46. No judge appointed under the authority of this Nation, shall be allowed to appear as counsel or attorney, and practice law in the courts of this Nation.

SEC. 47. Members of the executive council, and the executive secretary of the Cherokee Nation,

are hereby prohibited from practicing law, as attorneys, before any of the courts of the Cherokee Nation.

## ARTICLE X.

### VACANCY IN OFFICE.

SEC. 48. In case of the death, resignation, removal from office, or inability to act, of the Principal and Assistant Principal Chief, the president of the senate shall exercise the duties of the office of Principal Chief, until such disability be removed, or such vacancy be filled by an election by the National Council, according to the provisions of the constitution. If there be no president of the senate, the executive council shall, within thirty days, by proclamation, convene the National Council for the purpose of filling the same; and, in the *interim*, the senior executive councilor shall exercise the duties of the office of Principal Chief.

SEC. 49. Whenever a vacancy shall occur in the office of Assistant Principal Chief, by reason of his death, resignation or removal from office, the same shall be filled by a joint vote of both branches of the National Council.

SEC. 50. Any person, being a member of the National Council, who may remove from the district wherein he has been elected a member, shall, from the date of his removal, cease to be a member of the National Council, and it is made the duty of the clerk of the district to report to the Principal Chief any

vacancy occurring in his district, by reason of the death or removal of any member of either branch of the National Council.

SEC. 51. In case of a vacancy in the supreme court, by the death of a justice thereof, the clerk of the court shall notify the Principal Chief thereof. In case of a vacancy in the office of judge of the circuit court, by reason of the death of such judge, the clerk of the district wherein such judge may have resided, shall notify the Principal Chief of such vacancy. In case of a vacancy in the office of sheriff, solicitor, or judge of the district court, the clerk of the district shall notify the Principal Chief of such vacancy; and in case of a vacancy occurring, by death, in the office of clerk of the district, the solicitor of the district shall report the vacancy to the Principal Chief. All vacancies occurring in the offices of this Nation, shall be filled as required by the constitution of the Cherokee Nation or the laws thereof; but the Principal Chief may, when the public interests demand, make temporary appointments in all offices, the incumbents of which are required to be commissioned by him.

## ARTICLE XI.

### NATIONAL NEWSPAPER.

SEC. 52. The "Cherokee Advocate" shall have for its object, the diffusion of important news among the Cherokee people, the advancement of their general interests, and the defense of Indian rights; and shall be

published weekly, in the English and Cherokee languages; *provided*, nothing of an abusive, personal, or of a partisan character, shall be admitted into its columns.

SEC. 53. There shall be elected by a joint vote of both branches of the National Council an editor, whose duty it shall be to exercise control over the establishment; to furnish such matter for publication from time to time, as, in his judgment, will promote the object of its institution; to see that the material and property of the concern is properly preserved and economically used; to receive subscription moneys at the rates fixed by law, and account quarterly to the treasurer for the same; and make, annually, a report to the Principal Chief, for the information of the National Council, of the condition of the paper and its interests, with an itemized account of its receipts and expenditures.

SEC. 54. There shall be appointed, by the Principal Chief, one translator, whose duty it shall be to translate into the Cherokee language, for publication, such laws, public documents and articles, as the editor shall select for such paper.

SEC. 55. The editor and translator shall be subject to removal by the Principal Chief, for improper conduct, or failure to perform their respective duties; and the vacancy so occurring shall be filled by the Principal Chief, until otherwise ordered by the National Council.

SEC. 56. The terms of subscription to the *Cherokee Advocate* shall be one dollar per annum, in money,

national warrants, or certificates; but may be sent to subscribers who read only Cherokee, for fifty cents per year, to be paid in like manner. The rates of advertising shall be fixed by the editor, excepting such public advertising as may be furnished by the officers of the Nation, as provided by law.

SEC. 57. "The editor shall print, and deliver, within a reasonable time, to the Principal Chief, all such laws and treaties as may be required by the Principal Chief, or the National Council; to print and deliver, as above required, all blanks needed by the officers of the Nation in the discharge of their official duties, and do such other printing as may be necessary for the public service." (Dec. 5th, 1879.)

SEC. 58. "The editor shall be required to file a bond to the satisfaction of the Principal Chief before receiving any money for the purpose of publishing the *Advocate*.

SEC. 59. From and after February 10th, 1881, the editor shall be required to have one whole page of the paper published in the Cherokee language, and, for this purpose, he is authorized to employ two Cherokee boys, as apprentices, for the term of two years, who read and write Cherokee and English, and pay them, during the time, a sum equal only to the cost of their board and clothes, and the Principal Chief is authorized to draw preferred warrants, quarterly, for the same." (Dec. 7th, 1880.)

SEC. 60. The Principal Chief is authorized to draw warrants, quarterly, on the general fund, for the salaries of editor and translator, on the certificate of the editor.

## ARTICLE XII.

### MILITARY AND AGENCY RESERVE.

SEC. 61. Every military and agency reservation, which is, or may be hereafter occupied by the United States, within the limits of this Nation, and whenever the United States shall cease to occupy the same, shall revert to the Nation; and it will not be lawful for any citizen to take possession of any such reservation, except by the permission of the national authorities, under the penalty of being removed therefrom.

## ARTICLE XIII.

### PUBLICATION OF PENAL LAWS.

SEC. 62. The Principal Chief shall be required to cause to be published all the acts of the National Council "prescribing a penalty" for their violation, in either or both of the ways provided for in the 7th article of the treaty of July 19th, 1866, as to him may be deemed best for the public interest, within twenty days after the close of the session of the National Council passing such acts. And he shall cause to be entered a certificate of the manner of the publication

upon the register of his office. And he may require any officer of a district to post such laws in his district, as he may require of him.

SEC. 63. Every officer of this Nation, who shall willfully or negligently fail, or refuse, to promulgate any act of the National Council, prescribing a penalty for its violation, in the manner required of him by the Principal Chief, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in the sum of five hundred dollars; and, in default of payment, be imprisoned for any term not less than six months and less than one year.

SEC. 64. Every person, who shall willfully pull down, destroy, deface, mar or mutilate any notice, posted by any officer of this Nation for the general information of the people of this Nation, respecting any penal law required by treaty stipulations to be published, shall be deemed guilty of a misdemeanor, and be, upon conviction, imprisoned not less than three months, and less than one year, at the discretion of the court.

## ARTICLE XIV.

### PERMITS TO HIRE CITIZENS OF THE UNITED STATES.

SEC. 65. The district clerks be, and they are hereby, authorized and required to issue permits in accordance with the following regulations:

1st. The district clerks shall, before the issuance of any permit, require of the person to be permitted as

a mechanic, artizan, or laborer, to subscribe to the following oath, to-wit: .

"I do solemnly swear (or affirm) that I am a citizen of the United States, or foreigner. That it is not on account of any criminal offense against the laws of the same, that I have come to seek employment in this Nation. That within ten (10) days after the expiration of my permit, unless the same shall be renewed, I will remove without the limits of this Nation."

2d. When any citizen of this Nation who may wish to employ a citizen of the United States, or foreigner, as a mechanic, artisan, or laborer, the clerk of the district wherein such mechanic, artisan, or laborer shall be employed, shall issue a permit for the same, showing the name of the employer and employee, the length of time to be employed and the occupation to be followed. For such permit the employer shall pay in advance one dollar per month to the clerk, which permit shall not be given for a longer period than one year.

3d. The clerk shall notify the solicitor of his district of all permits by him issued with the specifications therein; and shall at the end of each quarter notify in like manner the treasurer, and turn over to him all sums received by him on account of permits.

4th. It shall be unlawful for any citizen of this Nation to procure a permit for any citizen of the United States, or foreigner, unless such citizen or foreigner shall be employed for some useful purpose; and it shall likewise be unlawful for any citizen of this Nation to employ without a permit, any person who shall claim the rights of citizenship, while such rights are disputed.

5th. Any citizen of the United States, or foreigner, who, having entered into agreement with a citizen of this Nation, and for whom a permit has been obtained, shall quit the employ of such citizen without his or her consent or knowledge, shall forfeit such permit, and, according to his oath, leave the Nation at once, and no other permit shall issue for such person unless it is proven to the satisfaction of the clerk that there has been a violation of contract by the employer.

6th. Any citizen of the United States, or foreigner, who is residing in the Cherokee Nation under a permit, who may employ or hire any other citizen of the United States, or foreigner, shall forfeit his permit, and it is made the duty of the solicitor to report him as an intruder.

7th. Any citizen of this Nation, who shall employ any citizen of the United States, or foreigner, in any other manner than is herein provided, shall be guilty of a misdemeanor, and, upon conviction, shall be fined in any sum not less than fifty dollars, nor more than one hundred dollars, at the discretion of the court, and, upon failure to pay said fine, be imprisoned not less than three months, nor more than six months. (Dec. 4th, 1879.)

## ARTICLE XV.

### INTERMARRIAGE OF WHITE MEN AND FOREIGNERS.

SEC. 66. Whereas, the peace and prosperity of the Cherokee people require, that, in the enforcement of

the laws, jurisdiction should be exercised over all persons whatever, who may from time to time be privileged to reside within the territorial limits of this Nation, therefore, every white man, or citizen of the United States, or of any foreign state or government, desiring to marry a Cherokee, "Delaware, or Shawnee" (Dec. 10th, 1880,) woman, citizen of the Nation, shall be and is hereby required to obtain a license for the same from any of the district clerks of the several districts, and make oath or satisfactory showing to such clerk, that he has not a surviving wife from whom he has not been lawfully divorced. And, unless such information be freely furnished to the satisfaction of the clerk, no license shall issue.

SEC. 67. Every white man or person applying for license, as provided in the preceding section of this act, shall before obtaining the same, be required to present to the said clerk a certificate of good moral character, signed by at least ten (10) respectable citizens of the Cherokee Nation who are Cherokees, Delawares, or Shawnees by blood, and who shall have been acquainted with him at least six months immediately preceding the signing of such certificate, together with "a certificate of good moral character, signed by the county clerk, and sealed with the seal of the county of which he was last a voter." (Dec. 10th, 1880.)

SEC. 68. Before any license as herein provided shall be issued, the person applying shall be, and is hereby required to pay to the clerk to whom application is made, the sum of five dollars, for the benefit of

said clerk, and the additional sum of five dollars for the benefit of the Cherokee Nation; and all sums, so received for the benefit of the Nation, shall be turned over by the clerk, to the national treasurer, on the first Monday in November of each year, beginning with 1881, (Dec. 10th, 1880,) and be also required to take the following oath:

"I do solemnly swear, that I will honor, defend and submit to the constitution and laws of the Cherokee Nation, and will neither claim, nor seek, from the United States, or any other government, or from the judicial tribunals thereof, any protection, privilege or redress incompatible with the same, as guaranteed to the Cherokee Nation by the United States in treaty stipulations entered into between them. So help me God."

SEC. 69. Marriages, contracted under the provisions of this act, shall be solemnized as provided by the laws of this Nation, or otherwise shall be null and void.

SEC. 70. No marriage between a citizen of the United States or of any foreign nation and a female citizen of this Nation, entered into within the limits of this Nation except as hereinbefore authorized and provided, shall be legal; and every person, who shall engage or assist in solemnizing any such marriage, shall, upon conviction before any district court of this Nation, be fined one hundred dollars; and it shall be the duty of the solicitor of the district in which such person may reside, to collect the same; and such solicitor so collecting shall be entitled, for his services, to twenty-five per cent. of the amount collected; and shall place the remainder into the hands of the treasurer to be by him credited to the general fund.

SEC. 71. Every person, performing the marriage ceremony, under the authority of a license provided for herein, shall be required to attach a certificate of marriage to the back of the license, and return it to the person in whose behalf it was issued, who shall within thirty days therefrom place the same in the hands of the district clerk, whose duty it shall be to record the same and return it to the owner.

SEC. 72. Every adopted citizen of the Cherokee Nation, by marriage, or otherwise, who shall use the intercourse law or laws (as they are termed,) in the prosecution of a Cherokee Indian, for any criminal offense committed within the limits of the Cherokee Nation, shall forfeit his rights of citizenship to the same, and be subject to be dealt with as other intruders in the country, and shall be removed out of this Nation.

SEC. 73. Should any man or woman, a citizen of the United States, or of any foreign country, become a citizen of the Cherokee Nation by intermarriage, and be left a widow or widower, by the decease of the Cherokee wife or husband, such surviving widow or widower shall continue to enjoy the rights of citizenship, unless he or she shall marry a white man or woman, or person (as the case may be,) having no rights of Cherokee citizenship by blood; in that case, all of his or her rights acquired under the provisions of this act shall cease.

SEC. 74. Every person, who shall lawfully marry under the provisions of this act, and afterwards abandon

his wife, shall thereby forfeit every right and privilege of citizenship of this Nation.

SEC. 75. Property of every description, possessed within the limits of the Cherokee Nation by an adopted citizen, shall, in case such adopted citizen abandon his wife without lawful cause, be the absolute property of such wife, or wife and her children. But whenever such abandonment shall be planned or effected by the wife for the purpose of ridding herself of her husband, then and in that case such wife shall be entitled to only such property as shall be awarded—upon application of either party for divorce, by the court having jurisdiction.

## ARTICLE XVI.

### INTERMARRIAGE OF CHEROKEES WITH OTHER INDIANS.

SEC. 76. Whereas, quite a number of our own citizens have intermarried with Indians, members of other tribes of this Territory, and it has always been the custom of the Cherokee people to recognize such marriages as lawful until the taking of the last census, when their rights as citizens were called in question; therefore, any Indian, a member of any of the tribes of this Territory who has married, or shall hereafter marry a Cherokee, a citizen of this Nation at the time of such marriage, in accordance with the law regulating marriage between native citizens thereof, shall be, and is hereby deemed a Cherokee to all intents and purposes, and entitled to the rights of other Cherokees. (Dec. 22, 1880.)

## ARTICLE XVII.

## ARBITRATION OF CIVIL CAUSES.

SEC. 77. It shall be lawful for parties to settle and adjust any dispute or controversy by arbitration; and when that mode is determined upon, the parties shall place in the hands of each arbiter, appointed by them, a written notice to that effect, signed jointly by the parties, which notice shall contain and state, for the information of the arbitrators, the matter of dispute or controversy to be settled; and, before the arbitrators proceed to arbitrate and decide such matter, they shall be sworn by the judge of the circuit or district court, or by the clerk of the district, and their decision shall be final, and shall be recorded in the office of the clerk of such court as would properly have had cognizance of the case, and execution shall issue by him to the sheriff, the same as if judgment had been obtained in such court, unless the arbitrators shall have decided otherwise.

SEC. 78. Any board of arbitrators may appoint their own clerk, who shall receive three dollars per day for his services. The arbitrators shall each be entitled to the sum of three dollars per day during actual service. Subpœnas for the attendance of witnesses shall be issued by the clerk and served by the lawful officer, as in suits at law, and witnesses shall be paid as in other cases. The expense of the arbitration, including the pay of the arbitrators, clerk and witnesses, as fixed in this section, shall constitute the cost of

arbitration, which shall be paid by either or both parties in the proportion awarded by the arbitrators, according to the equity of the case.

SEC. 79. Arbitrators shall be sworn to faithfully and fairly hear, examine, and determine the cause submitted to them, according to the principles of equity and justice, and to make a just and true award according to the best of their understanding. They shall appoint a time and place for hearing, and shall, in pursuance thereof, proceed with diligence to hear and determine the matters in controversy. But upon application of either party, and for good cause shown, they may adjourn the hearing from time to time, as may be necessary.

## ARTICLE XVIII.

### MINERALS.

SEC. 80. All gold, silver, lead, copper, iron, stone coal, petroleum, salt or other mineral, or medicinal water, existing in its natural state, which has been or may be hereafter discovered within the limits of the Cherokee country, is the property of the Cherokee Nation, and subject to the control of the National Council.

SEC. 81. Every "*bona fide*" citizen of this Nation, who may wish to prospect for, and engage in the mining of, the minerals thereof—gold and silver excepted,—or in the manufacture of salt, or in the collection and refining of coal oil or petroleum, or in

the preparation and sale of mineral or medicinal waters, shall make application in writing to the treasurer for that purpose, stating the mineral he wishes to operate in, the number and names of the company, the district and section thereof in which located, and the metes and bounds of the reservation on which he proposes operating; *provided, also,* that the same shall not be within, or infringe upon, the improvements or legal boundaries or limits of any other citizen or mining company, without the written consent of such other.

SEC. 82. No person or company shall locate, hold, or operate a second claim for any particular mineral without first surrendering the claim first located.

SEC. 83. Every person, or company, proposing to engage in mining, shall, before beginning the work, obtain from the treasurer a license for that purpose, which license shall clearly describe the location of the reservation selected, with its metes and bounds, and the minerals to be mined; and shall at the same time execute to the Cherokee Nation, and file with the treasurer and to his satisfaction, a bond in the sum of two thousand dollars, with good and sufficient security, conditioned upon compliance with the requirements of this act.

SEC. 84. Every person, or company, operating in the minerals of this Nation, shall be required to report, on oath, to the treasurer quarterly—on the first days of January, April, July and October, of each year—the gross amount of minerals mined, or salt manufactured, or medicinal waters prepared for sale, during each

quarter preceding such report, and at the same time pay into the treasury, for the benefit of the school or orphan funds, a sum of money equal to five per cent. of the value of such minerals at the place of production. And the mines, the stock on hand, the buildings, machinery, and fixtures thereto belonging, shall be held liable for the payment of the same. The refusal or failure of any person, doing business under the provisions of this act, to comply with the conditions of his bond, shall be good and sufficient cause for the revocation of the lease by the treasurer.

SEC. 85. Every citizen of this Nation, who shall lease, sub-lease, sell, give, or grant, in any manner, any interest in any mine, or medicinal or mineral water, in this Nation, to any person other than a citizen of the same, shall be fined in any sum not exceeding two thousand dollars for each and every such offense, and forfeit his bond and lease; and the treasurer is hereby authorized to proceed against such person or company, in the name of the Cherokee Nation, before any court of the Nation of competent jurisdiction.

SEC. 86. No license shall be granted by the treasurer for a longer period than ten years, at the option of the lessee; but every lessee who may elect to renew his lease, and who shall have complied with the terms of his former lease, may do so by complying with the law governing the same; but no new lease shall be granted, or old lease renewed, until all arrears to the Nation shall have been paid; *provided*, that the

National Council may, at any time, change, amend, or repeal any or all of the conditions of leases, so as not to affect leases in force at the time of such change or repeal.

SEC. 87. Should any mining company find upon his reservation any mineral other than that named in the lease, and for which the lease was granted, such company shall at once report such discovery to the treasurer; and shall have the right to work the same by incorporating it into the original contract, and by paying five per cent. thereon, for all such mineral obtained; *provided*, that such act of incorporation shall expire on the expiration of the original lease; *provided*, *further*, that parties locating claims under this act, shall begin work thereon within one year from the date of their license, otherwise such license shall be null and void.

## ARTICLE XIX.

### DANGEROUS WEAPONS.

SEC. 88. Every person, a citizen of this Nation, who shall in any way carry arms of any kind whatever, or who shall have on or about his person any dirk, bowie knife, pistol, revolver, slung shot, metal knuckles, or other dangerous arm or weapon, except a common pocket knife, unless for the purpose of hunting game, or upon a journey, or in pursuit of fugitives from justice, or in the discharge of duty by virtue of a legal summons, shall forfeit such arms or weapons to the

Nation, and be fined in any sum not exceeding one hundred dollars, or be imprisoned not exceeding six months, or be both fined and imprisoned at the discretion of the court having jurisdiction.

SEC. 89. All officers required by law to act as conservators of the peace, and to enforce or serve legal processes, are exempted from this article. And it is hereby made the duty of every sheriff, town constable, and their lawful deputies, to disarm all persons detected in violating the provisions of this act; to turn over quarterly to the treasurer all weapons or arms confiscated, and report the person so offending to the solicitor for indictment before the district court of the district wherein the offense was committed. The judgment of the court shall be final, and no property shall be exempt from execution and sale to satisfy such judgment, improvements excepted.

SEC. 90. One half of fines thus collected shall be divided equally between the sheriff and solicitor and the other half shall be paid into the treasury for the benefit of the orphans; *provided*, that, whenever a case is not sustained before the court trying the same, an order shall issue from the court for the restitution of the arms seized; and the treasurer or sheriff shall restore the same accordingly. But in all other cases the arms shall be the property of the Nation subject to the order of the National Council.

SEC. 91. Citizens of the United States, and foreigners under their protection, lawfully residing or temporarily sojourning in the Cherokee Nation, who

shall willfully neglect, or refuse, to conform to the requirements of this act as far as it affects citizens of the Cherokee Nation, shall thereby forfeit the protection of Cherokee laws, and the right or privilege of continuing longer in the Cherokee Nation, and shall be disarmed, arrested, and turned over with such arms to the lawful authority, for removal beyond the limits of the Cherokee country; *provided*, that the provisions of the preceding sections shall not be so construed as to annul, impair, or in any manner abridge, or destroy, the ordinances and rights of town corporations as guaranteed by law.

## ARTICLE XX.

### MARRIAGE AND DIVORCE.

SEC. 92. Marriage, so far as its validity in law is concerned, is a civil contract, to which the consent of the parties, capable in law of contracting, is essential.

SEC. 93. Every male person who shall have attained the age of eighteen years, and every female person who shall have attained the age of fifteen years, shall be capable in law of contracting marriage, if otherwise competent. But in all cases where the male is less than eighteen years of age, and the female less than fifteen years of age, the consent of the mother, father, or guardian of such minor shall be given, otherwise such marriage shall be null and void; unless it shall appear that the parties have no parent or guardian

then living, and at the time of marriage are self-dependent.

SEC. 94. No marriage shall be contracted whilst either of the parties has a husband or wife living, nor between parties who are nearer of kin than first cousins, whether of the half or of the whole blood; nor between parties who are insane or idiotic.

SEC. 95. Marriages may be solemnized by any of the judges of the courts of this Nation, or by the clerks of the several districts, or by any ordained minister of the Gospel in regular communion with any religious society. And any marriage contracted in writing in the presence of two or more attending witnesses, who shall sign the marriage contract as such, shall be lawful.

SEC. 96. No particular form of marriage shall be required in the solemnization of marriages, except that the parties shall solemnly declare in the presence of the judge, clerk, or minister officiating, or the attending witnesses, that they take each other as husband and wife; *provided*, that citizens of the United States, or those of other than Indian nationalities, intermarrying among the Cherokees, shall first comply with the law governing such cases.

SEC. 97. It shall be the duty of all persons contracting marriage in the presence of witnesses, or who shall, within the Nation, join two citizens thereof in wedlock, or who shall so join a citizen thereof with a citizen of any other government, to report the same to the clerk of the district in which such marriage was

solemnized, for registration, giving the full names of the contracting parties, their ages and previous places of residence, and the clerk shall at once make record of the same, in a book to be kept for that purpose.

SEC. 98. Every person, a citizen of this Nation, who shall, within the Nation, violate the provisions of this act, by joining minors in the bonds of matrimony without the consent of the father, mother, or guardian, except as herein-before expressly provided, shall be liable to a fine in any sum not exceeding one hundred dollars, or to imprisonment not exceeding six months, at the discretion of the court having jurisdiction.

SEC. 99. All marriages which are herein prohibited on account of consanguinity between the parties, or on account of either of them having a former husband or wife then living, shall be absolutely void in this Nation, without any judgment of divorce or other legal proceeding; *provided*, that the issue from such unlawful marriage shall nevertheless be legitimate; *provided, also*, that when a man, having by a woman one or more children, shall afterwards intermarry with such woman, such child or children, if recognized by him, or proven to be his, shall thereby be legitimate.

SEC. 100. A divorce from the bonds of matrimony may be adjudged by the circuit courts of this Nation, on action brought in the district where the parties or one of them reside, on application by petition or complaint of the aggrieved party.

SEC. 101. Actions for divorce shall be conducted in the same manner as other actions in courts, and the court shall have power to enforce its judgments as in other cases; and when a judgment of divorce from the bonds of matrimony is granted in this Nation by a court of competent authority, such judgment shall fully and completely dissolve the marriage contract as to both parties.

SEC. 102. A divorce from the bonds of matrimony may be adjudged for either of the following causes, viz: for adultery, for imprisonment for three years or more; for willful desertion and neglect for the term of one year next preceding the filing of the complaint or petition; for extreme cruelty, whether by violence or other means, and for habitual drunkenness for one year immediately preceding the filing of the complaint or petition.

SEC. 103. The court in granting a divorce shall, in all cases where there are minor children of the parties divorced, make such order concerning the care, custody, and maintenance of such children as it shall deem proper and just, having due regard to the age and sex of the same.

SEC. 104. When a judgment of divorce has been granted, and the parties shall afterwards intermarry, the court, upon their joint application, and upon satisfactory proof of such marriage, may revoke all judgments or orders of divorce, alimony, and subsistence, which will not affect the rights of third persons.

## ARTICLE XXI.

## LAWFUL FENCES.

SEC. 105. All fences four and a half feet high, and constructed of posts, placed not exceeding eight feet apart, and securely set two feet in the ground, and properly boarded with sawed plank or split railing, and in good repair, shall be deemed sufficient and lawful fences.

SEC. 106. All fences constructed of pickets, securely set two feet deep in the ground, and five feet high above the surface of the ground, and in good repair, shall be deemed sufficient and lawful fences.

SEC. 107. All worm fences constructed of rails, and of an average height of four and a half feet after settling, and securely staked and ridered, and in good repair, shall be deemed sufficient and lawful fences.

SEC. 108. Fences constructed of ordinary rails confined between two posts securely set two feet in the ground and firmly tied at the top, or of rails fitted by mortice into posts thus set, and four feet and a half high, and in good repair, shall be deemed sufficient and lawful fences.

SEC. 109. All pailing fences, constructed of posts, railings and pailings, the posts, being set securely two feet in the ground, with two or more slats or railings to the panel, with pickets four inches broad and three quarters of an inch thick, or two and a half inches broad and one inch thick, of sawed or split material,

and securely nailed with not less than one eight penny nail to each bearing of every upright board or picket, and not less than five feet high, and in good repair, shall be deemed sufficient and lawful fences.

SEC. 110. All fences constructed of stone, laid with or without mortar, perpendicular on the exterior side, with three and a half feet base and eighteen inches at the top, properly capped, and not less than four and a half feet high, and in good repair, shall be deemed sufficient and lawful fences.

SEC. 111. All ditches designed for fences, with perpendicular interior walls four feet deep and four feet wide, the excavated earth, gravel or rock, being uniformly distributed along the inner bank of the ditch, and in good repair; and all live hedges not less than three years old, of sufficient growth and compactness, in good repair, and being equal to any one of the fences aforesaid, shall be deemed sufficient and lawful fences; *provided*, that the cracks or spaces in fences enclosing yards and vegetable gardens, and designed to exclude small animals, shall not exceed an average of two inches to a height of two feet from the ground, four inches for the next foot, and six inches for the residue to the desired height; nor shall such spaces or cracks exceed an average of four inches for the first two and one half feet from the ground, nor six inches thence to the fifth foot, in fences enclosing other grounds, and designed for the exclusion of stock capable of doing damage to field crops.

## ARTICLE XXII.

PROHIBITING THE SALE, AND RESTRICTING THE LEASE OF  
REAL ESTATE.

SEC. 112. It shall not be lawful for any citizen of the Cherokee Nation to sell any farm, or other improvement in said Nation, to any person other than a "*bona fide*" citizen thereof; nor shall it be lawful to rent any farm or other improvement in this Nation to any person other than a citizen of the Indian Territory; and every person who shall offend herein shall be deemed guilty of a misdemeanor, and, on conviction thereof shall suffer punishment by fine, in any sum not less than ten dollars, nor exceeding five hundred dollars, or in default of payment, by imprisonment for any term not exceeding one year.

SEC. 113. The solicitor and sheriff, prosecuting the case and collecting the fine, shall be entitled to twenty-five per cent. each, of all sums so collected, and the residue thereof, or fifty per cent. of the whole amount collected, shall be paid into the national treasury for the benefit of the general fund; *provided*, that this act shall not be so construed as to prevent the renting of houses and small tracts of land for cultivation, to school teachers, officiating ministers, licensed traders, and practising physicians, lawfully in the country, or to prevent the renting of houses to mechanics and other useful laborers who may be lawfully permitted to sojourn in the Nation; *provided, also*, that the provisions

of the next preceding section, shall not be construed as granting license to such licensed traders, teachers and others, to engage in farming or gardening, stock or poultry raising, or keeping for profit, in lieu of their ostensible business, under penalty of removal from the country as intruders, and confiscation of the property acquired and held in the Nation while so intruding.

## ARTICLE XXIII.

### GRIST MILLS.

SEC. 114. The owners or occupiers of all grist mills in this Nation, moved by water, shall be entitled to one-eighth part of all wheat, corn, or other grain, ground and bolted, or ground and not bolted, and no more. Owners or occupiers of all grist mills in this Nation, moved by steam or wind, shall be entitled to one sixth part of all wheat, corn, or other grain, ground and bolted, or ground and not bolted, and no more; and owners or occupiers of any grist mill in this Nation, moved by horse or other animal power, shall be entitled to one fourth part of all wheat, corn, or other grain ground and bolted, or ground and not bolted, and no more; and any owner or occupier of a grist mill in this Nation, who shall exact or take more toll than is herein allowed, shall, in every such case, be liable to a fine in any sum, in the discretion of the court, not exceeding fifty dollars, and to the party

injured, in five times the actual damages sustained by him; or, in default of payment, to imprisonment not exceeding six months.

SEC. 115. The miller, owner, or other person in charge of a mill, used and occupied as a public grist mill, shall not be permitted to grind his own grain to the exclusion of other grists; but shall well and sufficiently grind, or grind and bolt, the grain brought to mill for that purpose, in due time, and in the order in which it shall be received. He shall be accountable for the safe keeping of all grain received in such mill for the purpose of being ground therein, and shall deliver the same when ground, or ground and bolted, as the case may be; with bags, casks, or other vessel in which it was brought, when demanded; *provided, however,* that he shall not be accountable for any bag, cask, or other vessel, or their contents, unless plainly marked with the owner's name. Nor shall he be accountable for any loss by fire, or robbery, or unavoidable accident, without the fault of such owner or occupant, his agents or servants.

SEC. 116. The pains and penalties prescribed for a breach of the provisions of section one of this act, shall also apply to any breach of the provisions of the next preceding section.

SEC. 117. Nothing contained in this act shall be so construed, as to compel owners or occupants of mills to grind grain, or grind and bolt in large quantities for the purpose of trade, to the exclusion of others; or from

grinding, or grinding and bolting his own grain, at any time; *provided*, that, in so doing, he does not infringe upon the rights of others.

## ARTICLE XXIV.

### STRAY PROPERTY.

SEC. 118. It shall be the duty of each of the sheriffs of the several districts, to receive and advertise, for public sale to the highest bidder, all stray property that may be found, or reported to them, in their respective districts, such as horses, mules, asses, cows, hogs, sheep and goats, giving a description of color, brands, ear and flesh marks, age and sex; and such property shall be sold, for prompt payment, in cash, national warrants or certificates, at the regular terms of the circuit and district courts, and on the first day thereof, and not before the hour of ten in the morning.

SEC. 119. All stray property, before being sold, shall be advertised at least ninety days, by written advertisement in the English and Cherokee languages, posted at the court house in the district wherein such property is to be sold, and in like manner in the "Cherokee Advocate," in *nonpareil* type; and any person, having property advertised under the provisions of this act, shall have the right of reclaiming such property, by proving the same, on or before the day of sale, before the judge of the district court of the district wherein such property is posted; and such judge, if satisfied with the sufficiency of the proof, after record-

ing the same, and making his decision thereon, shall issue an order directing the sheriff, posting the property, to deliver it to the owner.

SEC. 120. If any person, having property advertised under the provisions of this act, shall fail to prove the same, before the sale of the same, he shall forfeit his right to such property, except as hereinafter provided; but any person who shall prove such property, in the manner hereinbefore provided for, within nine months after the sale of the same, shall be entitled to receive from the treasurer, on the certificate of the judge before whom the proof is made, the proceeds, in kind, of the sale of the same, deducting therefrom the sheriff's fees.

SEC. 121. Any person, who may take up stray property, shall, within ten days thereafter, be required to have the same posted; and any person failing to comply with this provision, shall be liable to a fine of not less than ten, nor exceeding twenty dollars.

SEC. 122. Any sheriff, not wishing to keep stray property in his possession, shall be authorized to place the same in the possession of some responsible person, who shall, for the expense of keeping such property, have the use of the same; but no further expense shall attach to keeping thereof; and any person taking up stray property, or having the same in his possession by permission of the the sheriff, shall be required to take good care of the same; and if the property shall be injured, through the willfulness or negligence of such person, he shall be responsible in such an amount as will indemnify the person or party injured.

SEC. 123. Any person who shall sell, or dispose of, or willfully take any stray property, not his own, or shall willfully kill or maim any such property, either before or after such property is posted, shall be deemed guilty of the same offense as if the act was committed upon the property of a known citizen, and shall, upon conviction, be punished accordingly.

SEC. 124. It shall be the duty of the several sheriffs to have, if possible, all property that may be posted by them, at the court house on the day of sale, and to place the purchasers thereof in possession of the same when sold, or within a reasonable time if required to do so. The sheriff may retain ten per cent. in kind, of all proceeds of sales of stray property, and be required to turn over the residue to the treasurer at such times as he may be by law required to make reports of such sale. He shall keep a registry of all property sold, showing dates of sales, to whom made, amount in kind received, and the kind of property sold; and report the same quarterly to the treasurer, as he may direct. He shall also furnish the judge of the district with copies of the advertisements of stray property within ten days after posting the same, and shall notify said judge of all sales made by him, to whom made, amount in kind received, and kind of property, within ten days after sale, and the judge shall file the same in his office.

SEC. 125. The clerk of the district shall be present at all sales of stray property, and shall make, and keep

on record in his office, a register of all sales by the sheriffs, to whom made, amount in kind paid, date of sale, and kind of property sold, and make therefrom a quarterly report to the treasurer, as he may direct.

## ARTICLE XXV.

## LICENSSED TRADERS.

SEC. 126. Whereas, in the year one thousand eight hundred and thirty-four, the congress of the United States enacted a law, known and styled the "Intercourse law," to regulate trade with the Indian tribes; and whereas it is enacted in the 22d section of said law, "that if an Indian is party on one side and a white man on the other, the burden of proof shall rest on the white man;" and in the 23d section, "that it shall be lawful for the troops to be employed in the apprehension of any white man who may become a party to a suit where an Indian is concerned, and have him conveyed to the nearest civil authority of the Territory, or judicial district in which the person may be found, to be proceeded against in due form of law." Therefore, from and after the passage of this act, if any licensed trader under the United States, or other person, not a citizen of this Nation, has, or may contract debts within the limits of this Nation, with a citizen thereof, it shall not be lawful for such person to recover such debts in any of the courts of the same; and all laws or parts of laws that may authorize the

collection of such debts, except in cases otherwise expressly provided for by law are hereby repealed; *provided*, that whenever an adopted citizen of this Nation shall apply for, obtain, or accept of a license to trade in this Nation, from the United States government, no license or permit to trade shall be granted to such adopted citizen, by the authorities of this Nation. And the Cherokee Nation would hereby disclaim all responsibility or liability, in consequence of any loss or damage sustained by such licensed trader, under the government of the United States.

## ARTICLE XXVI.

## INTRUDERS.

SEC. 127. Every person unlawfully residing or sojourning in the Cherokee Nation, agreeably to the 27th article of the treaty of July 19th, A. D., 1866, with the United States, and in violation of the laws of this Nation, shall be and hereby is deemed to be an intruder. And it is hereby made the duty of the sheriffs of the several districts, whenever called upon for that purpose, to co-operate with the proper authorities of the United States in the removal of such intruders beyond the limits of this Nation; *provided*, that such sheriffs, while so engaged, shall act under the authority of the United States, and be compensated by the same.

SEC. 128. Solicitors shall furnish annually, by the close of the "fiscal year," to the Principal Chief, a

complete and full list of all persons residing or being in their several districts, in violation of law, and the Principal Chief shall, as soon as may be, report the same to the proper authority for removal.

SEC. 129. Improvements made or held by intruders at the time of their removal, or at the time when reported—if there is no adverse title held by a "*bona fide*" citizen of the Nation,—shall be sold to the highest bidder by the sheriff of the district in which located, after fifteen days notice in the "Cherokee Advocate," or by posting at three of the most public places in the district. Such sales to be for prompt payment in cash or national warrants, or certificates, and the proceeds, after deducting his fees of ten per cent. shall be paid by the sheriff into the general fund of the national treasury.

## ARTICLE XXVII.

### LIABILITY OF THE CHEROKEE NATION TO HER OWN CITI- ZENS.

SEC. 130. The Cherokee Nation shall be liable to all persons whatever, citizens of the Nation, having claims at law or equity, against her, to the same extent as individual persons are liable to each other, and may be sued by any citizen, having a cause of action, in the manner hereinafter provided; but no suit shall be main-

tained unless the claim has been demanded, and payment refused or waived.

SEC. 131. All suits against the Nation, shall be commenced in the circuit court of the district in which the national capital is situated; but appeals may be taken to the supreme court in the same manner as in civil cases between individual litigants, and said circuit and supreme courts, shall have exclusive jurisdiction over all causes in which the Nation may be made a party defendant; *provided, however,* that said suits may, with the consent of the parties, originate in and be determined by the supreme court alone independent of the circuit court. Suits against the Nation shall be instituted and conducted in the same manner as suits between individuals.

SEC. 132. Process in suits against the Nation, shall be served on the Principal Chief, in the mode prescribed by law for the service of process in other cases; and the Principal Chief shall, whenever such process against the Nation is served upon him, appear in person or by counsel, and represent the Nation. He shall employ counsel, as he may deem necessary, to appear in defense of the Nation.

SEC. 133. Judgments and decrees against the Nation shall not be enforced in any manner, except by an appropriation made by the National Council, on the petition of the person holding such judgment or decree, accompanied by a duly certified copy of such judgment or decree.

## ARTICLE XXVIII.

## STALLIONS AND JACKS.

SEC. 134. It shall be unlawful to suffer any stallion or jack to run at large after either has become two years old, under the penalty that such stallion or jack may be castrated by any person; and should such stallion or jack die in consequence of having been so castrated, the person or persons, doing the same, shall not be held accountable for the value of such stallion or jack. This law applies, likewise, to stud mules.  
(Dec. 4th, 1878.)

## ARTICLE XXIX.

MANNER OF PROCEEDING AGAINST OFFICERS CHARGED WITH  
MALFEASANCE.

SEC. 135. Every complaint hereafter made against an officer of this Nation, involving his reputation as an officer, and for the purpose of effecting his suspension and removal, shall be made in writing; and upon oath, and shall clearly set forth all the grounds or alleged facts upon which his accusers rely for his suspension, conviction, and removal. The charges shall be duly signed by the complainants, and any testimony in support thereof, by the witnesses testifying, and depositions, shall be certified by the district judge or clerk before whom made.

SEC. 136. A certified copy of the charges, with the testimony of the witnesses in support thereof, shall,

without delay, be furnished by the judge or clerk, before whom such charges have been made, to the officer accused; and such accused officer shall have the right, for ten days after the receipt of such papers, to appear before the "judge or clerk," and disprove or rebut the same by his own affidavit, and that of witnesses, made and certified in form, as herein required of his accusers, and such "judge or clerk" shall accord a fair and full hearing to both parties. He shall then carefully envelope, seal, plainly direct, and transmit to the Principal Chief, in two separate packages, all of the papers in the case.

SEC. 137. The envelope, or package containing the charges shall be marked, "charges against \_\_\_\_\_," (naming the officer charged, his office, and district.)

SEC. 138. That containing the defence or rebutting testimony shall, in like manner, be marked, "defense of \_\_\_\_\_," (naming officer, office and district.)

SEC. 139. If the party accused shall fail to respond, as herein provided, he shall be deemed to have waived his right of defence at that time; and the case shall be made up and transmitted to the Principal Chief the same as if he had responded. The Principal Chief shall, without further delay, proceed to investigate and determine from the papers before him, whether the charges are well founded and sufficiently proven; and if by him deemed sufficient, he shall suspend accordingly, but if not sufficient, then he shall dismiss the case.

SEC. 140. In every case of suspension of an officer of the Nation by the Principal Chief, the Chief suspend-

ing shall clearly set forth in his proclamation or order of suspension, all the grounds upon which he bases such suspension; and such officer shall have the right of defence before any preliminary examination before the council branch of the National Council, and on trial before the senate, sitting as a high court of impeachment; and shall be required to answer only on the grounds upon which he was suspended as set forth in the order or proclamation of the Chief. No officer shall be suspended for cause other than charged in the complaint, to which he has had opportunity to respond, as herein-before provided. (Dec. 5th, 1877.)

### ARTICLE XXX.

#### RELATING TO THE REVENUE.

SEC. 141. It shall be the duty of all officers who receive national warrants or certificates, in payment of dues to the Nation, to mark the same by writing upon the face of such warrants or certificates the word "*revenue*," giving the date of receiving the same, and the purpose for which received.

SEC. 142. The officer receiving such warrants or certificates, shall subscribe his name thereon, and shall, on or before the close of the second and fourth quarter of the fiscal year pay over to the national treasurer, all such warrants or certificates so received, and the treasurer shall safely preserve the same, and embody an account of all revenue paid to him under the provisions of this act, and report the same, in his annual report,

to the National Council; *provided*, that any officer, failing to comply with the provisions of this act, shall forfeit twenty-five dollars of his salary, and the Principal Chief shall withhold the same from the officer so offending, and it is hereby made the duty of the treasurer to promptly report all such delinquencies to the Principal Chief. (Nov. 26th, 1880.)

## ARTICLE XXXI.

### PROHIBITING CITIZENS OF THE UNITED STATES FROM KILLING GAME IN THE CHEROKEE NATION.

SEC. 143. It shall be the duty of the sheriffs of the several districts of this Nation to arrest all persons found killing game within the limits thereof, and not citizens of this Nation, and deliver the same, together with their arms, ammunition, traps, and other articles used in hunting, trapping and fishing, to the United States Indian Agent.

SEC. 144. Any citizen of this Nation who shall have in his employ a citizen of the United States, with or without a permit, who violates the provisions of this act, and fails to report the same to the sheriff of the district, shall be deemed guilty of a misdemeanor, and on conviction before the district court, be fined in a sum not less than ten nor more than twenty-five dollars, and upon failure to pay such fine, be imprisoned for a term not less than thirty days, at the discretion of the court. (Dec. 5th, 1877.)

## ARTICLE XXXII.

## RELATING TO PHYSICIANS.

SEC. 145. "The Principal Chief is authorized and required to appoint a board of physicians to consist of three persons, who are regular graduates of some well authenticated medical school, and residents of the Nation, whose duty it shall be to examine all persons, not citizens of the Nation, who have located, or may locate hereafter, within the limits of said Nation for the purpose of practicing medicine.

SEC. 146. Any person, desiring to come before the board for examination shall make his or her application to the president of the board, in writing, and shall accompany such application with sufficient references of his or her moral character in the community in which he or she resided in the year previous, and shall also accompany such application with the endorsement of four or more citizens of the Nation, resident in the vicinity where the applicants may desire to practice medicine. Such application shall likewise be accompanied with the sum of twenty-five dollars which shall be the fee for examination.

SEC. 147. Any person, coming before the board and standing a satisfactory examination, shall be furnished a certificate of the same, and upon presentation of such certificate to the United States Indian Agent, he is requested to grant the holder thereof, a permit to reside in the Cherokee Nation for one year, for the purpose

only of practicing medicine, and to renew, annually, such permit, upon satisfactory evidence of good behavior.

SEC. 148. Any person not a citizen, and claiming to be a physician, and failing to comply with the provisions of this act, shall be deemed an intruder, and dealt with accordingly; and it shall be the duty of said board to report to the Principal Chief any person, making application and failing to pass a satisfactory examination." (Nov. 24th, 1873.)

SEC 149. The Principal Chief is authorized to grant the holder of a certificate, of a satisfactory examination, from the "board of physicians," a permit to remain within the Cherokee Nation, under the same terms and conditions as the act of November 24th, 1873, grants to the United States Indian Agent.

SEC. 150. Any physician, lawfully practicing his profession within the Nation may collect, in the same manner and upon the same conditions as other debts are collected, before any of the courts of this Nation, not exceeding seventy-five cents per mile in going to visit a patient during the hours from sunrise to sunset, and not exceeding one dollar per mile from sunset to sunrise. (Dec. 7th, 1878.)

#### ARTICLE XXXIII.

SEC. 151. Any person desirous of keeping a public ferry, shall first be required to obtain a license for that

purpose from the national treasurer, and for which he shall pay annually in advance, the following tax, to-wit: For a ferry on the Arkansas, Canadian, or Grand rivers, the sum of twenty-five dollars per annum; on the Illinois, Verdigris, and "Neosho" rivers, the sum of ten dollars per annum. Any person, so obtaining a license, shall be required to keep good boats and ferrymen, and cross all persons promptly during seasonable hours, (Sundays excepted,) when it can be done with safety, at rates heretofore fixed and customary. No person shall be allowed to open a new ferry within less than half a mile of any ferry established agreeably to the provisions of this act.

SEC. 152. Any person, found guilty of a violation of the provisions of this act, shall be subject to a fine for every such offense, in a sum double the amount of the license established above, one half for the benefit of the informer, and the other for the treasury. All such fines shall be recoverable before the courts of the Nation. (October 31st, 1849.)

# CHAPTER XIII.

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## AN ACT FOR THE PROTECTION OF THE PUBLIC DOMAIN.

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### ARTICLE I.

#### LUMBER AND TIMBER.

SEC. 1. From and after the publication of this act, as provided by the treaty of 1866, it shall not be lawful for any person, a citizen of the Cherokee Nation, or non-citizen, to sell, or dispose of any lumber, or sawed timber, or other timber, to any person not a citizen of the Cherokee Nation.

SEC. 2. It shall not be lawful for any person, a citizen of the Cherokee Nation, to transport, ship, haul, carry, or remove any timber, whether the same be sawed or otherwise, beyond the jurisdiction or geographical limits of the Cherokee Nation, and any person offending, as herein provided, shall be deemed guilty of a misdemeanor, and upon conviction of the same before the district court of the district wherein the offense shall have been committed, shall be fined in a sum of not less than fifty, nor more than one hundred dollars, together with the cost of prosecution, at the discretion

of the court trying the same; *provided*, that one half of all fines and penalties so collected, shall be paid to the solicitor of the district wherein the prosecution was had; *provided, always*, that in all cases of conviction, as herein provided for, and the party convicted fails to pay the fine imposed, he shall be imprisoned in the national prison for a term not less than one, nor more than three years; and all laws or parts of laws conflicting with this act, are hereby repealed; *provided*, that nothing in this act shall be so construed as to prevent citizens of the Cherokee Nation, selling cord wood to persons legally residing in the Indian Territory; *provided*, also, that non-citizens of the Nation be and are hereby prohibited from taking timber from the public domain at any time and place, for the purpose of traffic or from buying from a citizen for such purpose, and any citizen, or non-citizen offending herein, shall be held liable to prosecution as hereinbefore named, and every non-citizen, who shall be detected in violating the provisions of this section shall be reported for prosecution under the so-called "Intercourse laws" of the United States. (Dec. 6th, 1879.)

## ARTICLE II.

### REGULATING SETTLEMENTS ON THE PUBLIC DOMAIN.

SEC. 3. No person shall be permitted to settle or erect any improvement, or cut and remove timber, within one fourth of a mile of the house, field or other improvement of another citizen, without his, her, or

their consent, under the penalty of forfeiting such improvement and labor for the benefit of the original settler; *provided*, it may be lawful, however, where a settler has a field one half mile or more from his residence, and where there may be a spring or running water, and timber, for another citizen to improve and settle one hundred yards from such field so situated.

SEC. 4. All improvements, which may be left unoccupied by any person or persons, citizens of this Nation, and such person or persons remove to another place, leaving no person or tenant on their former place, for the term of one year, such place or improvements shall be considered abandoned, and revert to the Nation as common property; and any person or persons whatever, citizens of this Nation, may take possession of any such improvement so left, which shall thenceforward be considered their lawful property; *provided*, nothing in this act shall be so construed as to impair the rights of orphans. (Sept. 24th, 1839.)

SEC. 5. "No claim to any place in the Cherokee Nation shall be valid under any act regulating the settlement of the public domain, unless the person locating the same shall, within six months thereafter, make improvements thereon to the value of fifty dollars, and be in actual possession thereof, or by agent lawfully resident in the Cherokee Nation, whether such place is to be used as a farm, residence, stock ranche, or place of business." (Dec. 14th, 1870.)

## ARTICLE III.

RESPECTING THE FURNISHING RAILROAD TIES, AND OTHER  
MATERIAL, TO THE MISSOURI KANSAS AND TEXAS  
RAILROAD COMPANY.

SEC. 6. Railroad ties, and other material, may be furnished from the public domain of the Cherokee Nation, to the Missouri, Kansas and Texas Railroad company, upon the following conditions, to-wit:

The Principal Chief shall grant a written license to citizens of the Cherokee Nation only, for the purpose of furnishing said ties and material to repair said road, or to repair its bridges, or to work upon the depots and property of the same, within the limits of the Cherokee Nation; said citizen, so licensed, before furnishing said ties and material, shall enter into a contract for that purpose with the proper authorities of said railroad company, to be approved by the Interior department at Washington, according to the terms of the bond of said railroad company, filed in the Interior department, under date of August 10th, 1870, before the said contracts shall be considered as valid and binding. The Cherokee citizens so licensed and contracting, shall, before furnishing ties and material as aforesaid, file bonds with the National treasurer, to be approved by the Principal Chief, and made payable to him, for twice the amount of the tax due the Nation on said approved contract, and conditioned upon a faithful

compliance with the provisions of this act by the said licensed and contracting citizens.

SEC. 7. Persons furnishing ties and material, under the provisions of this act, are hereby required to pay to the sheriffs of their respective districts, in which said ties and material may be obtained, for the benefit of the national treasury, as follows:

For every tie and cross tie.....	5 cents.
For bridge and other railroad timber, whether hewed or sawed, 15 per centum of the actual cash value of the same, at the time and place of obtaining the same.	
For every cubic yard of stone used in first class stone work.....	15 cents.
For every cubic yard used in second class stone work.....	10 cents.
For every cubic yard used in third class stone work.....	5 cents.

And it shall be the duty of said sheriffs to keep a correct account of all funds so received by them, and to make, on oath, a correct report of the same on the first Monday in May and October in each year, to the treasurer of the Nation, to whom, at the same time, the said sheriffs shall turn over all funds received by them under this act.

SEC. 8. No person furnishing ties and material as aforesaid, shall be permitted to intrude, or trespass, upon the improvements or rights of any of the citizens of this Nation, without the consent of such citizen;

*provided*, that no regard be paid to any improvement that may be worth less than fifty dollars unless said improvement be occupied by an actual settler; and *provided, further*, that nothing herein shall be so construed as to impair the rights of orphan children.

SEC. 9. The Principal Chief shall have the power to appoint from time to time, as occasion may require, three citizens of the Cherokee Nation, whose duty it shall be to examine into and determine the amount of any damages against said railroad company, in building and operating its road through said Nation, or any part thereof, which may be sustained by any citizen of said Nation, by reason of said road passing through his or her farm, or destroying or disturbing his or her improvements, or by the destruction of any property of any citizen. Such judgment to be sent to said Chief, and by him forwarded to the Secretary of the Interior of the United States for his approval; and such adjudgment of damages, when approved, to be collected and paid by the United States, or any proper authority thereof; and said commissioners shall be paid, for their actual service, at the rate of five dollars per day.

SEC. 10. No citizen of the Cherokee Nation, or corporation of such citizens, shall be allowed to contract for more than ten thousand ties to any single railroad company whose road may have the right to pass through said Nation, or any part thereof; and any party violating the provisions of this article, shall forfeit to the Cherokee Nation double the amount of his

or their contract, to be recoverable before any court of this Nation, having jurisdiction of the same." (Dec. 14th, 1870.)

## ARTICLE IV.

### AUTHORIZING THE SETTLEMENT OF TOWNS AT RAILWAY STATIONS.

SEC. 11. At each and every station along the line of any railroad passing through the land of the Cherokee Nation there shall be reserved to the Cherokee Nation one mile square, to include such station in such manner as may be deemed advisable by the commissioner hereafter authorized; and said tract shall be laid off into town lots, and sold at public sale to the highest bidder, who shall be a citizen of the Cherokee Nation, and who shall thereby acquire the same rights, and none other than those, of use and occupancy, in the same way, and to the same extent, as conferred by law upon purchasers of lots in the towns of Fort Gibson and Tahlequah; *provided*, that this act shall not be so construed as to interfere with any of the mineral resources of the public domain, or laws of the Cherokee Nation in relation thereto.

SEC. 12. The Principal Chief is hereby authorized to appoint three commissioners, whose duty it shall be to locate and survey said town sites, and sell the lots thereof, or such number of lots as may be deemed advisable, as hereinbefore specified, and report to the

Principal Chief, the locations, surveys, and sales of lots, receipts and expenditures, on the first day of October of each year.

SEC. 13. The sales, payments, and conditions of title shall be the same as provided by law in the sales of lots in the town of Fort Gibson.

# CHAPTER XIV.

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## ENUMERATION OF THE CHEROKEE PEOPLE.

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### ARTICLE I.

#### TAKING THE CENSUS OF THE CHEROKEE NATION IN THE YEAR 1880.

SEC. 1. Two expert and responsible persons, who shall be residents of the district from which they are appointed, and one of whom talks (speaks) the Cherokee language, shall be appointed by the Principal Chief, in each district, are hereby directed and authorized to take the census of their respective districts, between the first day of March and the first day of May, 1880, and make full and certified returns thereof to the Principal Chief, on or before the first day of June of said year.

SEC. 2. The said census takers, before entering upon the duty hereby assigned them, shall take an oath for the full and impartial and correct performance of the same, as hereinafter defined.

SEC. 3. It shall be the duty of said census takers to make full and complete returns of all persons found residing or sojourning within the limits of their respect-

ive districts, at the time of making the enumeration, as required by the foregoing section. And said returns shall show the names of all heads of families, giving a complete registration of births, deaths and marriages; also, the age and sex, and names of all males above the age of eighteen years; the names of all females above the age of eighteen years; the names of all males under the age of eighteen years; the names of all females under the age of eighteen years; the names, sex, and ages of all orphans under sixteen years; the names of all whites entitled by law to citizenship, within the ages above specified; the names of whites not so entitled; the names of all colored persons entitled by law to citizenship, within said ages, and the names of all such persons not so entitled; and the names of all Indians not so entitled; also a report of the chief productions of agriculture, including number of horses, cattle, hogs, sheep, etc., during the year ending May 1st, 1880.

SEC. 4. It shall be the duty of the Principal Chief to cause ruled blanks to be prepared, of a suitable and convenient form, and furnished to said census takers, for the purpose of making the enumeration herein provided for; and said census takers shall be allowed three dollars per day in the performance of the duties hereinbefore imposed upon them.

SEC. 5. It shall be the duty of the Principal Chief to cause a summary of the returns of said census to be prepared and laid before the National Council, together with the full returns of the same, at the beginning of the

annual session thereof in 1880, and which returns shall serve as a basis for apportioning the representation of the several Districts of the Cherokee Nation in the National Council, in accordance with the amendments to the Constitution dated November 28th, 1866.

SEC. 6. All persons whose rights to citizenship in the Cherokee Nation shall be called into question, and who shall be reported by the persons authorized by this act to take the census of the Cherokee Nation, on the list of doubtful persons, shall be required by the Principal Chief to appear before the commission on citizenship, at Tahlequah, during the month of September, 1880, for the adjudication of their claims to Cherokee citizenship. (Dec. 2d, 1879.)

## ARTICLE II.

### JOINT RESOLUTION PROVIDING FOR AMENDMENTS TO CENSUS ROLLS.

SEC. 7. Each census roll of the enumeration of 1880 are referred to a joint committee, for each district, to be composed of one member from the senate, and two members from the council, of their respective districts, whose duty it shall be to carefully examine and pass upon each name appearing on said roll, and the names of any persons appearing thereon, they may know, or have good reason to believe, are non-citizens, and not entitled to appear on said census roll, shall be plainly marked in red ink, "*suspended for examination;*"

and the names of any person so marked, shall not be placed upon the record, to be made, of citizens of the Cherokee Nation by the persons to be appointed for that purpose by the proper authority; and the names of any Cherokee citizens, *bona fide*, whose names have been omitted through an error or mistake of the census takers, shall be added to the census roll, as a part of the census of 1880.

SEC. 8. The rolls shall be signed and approved by the several committees, and returned to the executive department of the Nation. (Nov. 8th, 1880.)

### ARTICLE III.

#### AN ACT AUTHENTICATING THE CENSUS RETURNS OF 1880, AND PROVIDING FOR A COPY THEREOF.

SEC. 9. The register or schedule of citizens of the Cherokee Nation, submitted to the Principal Chief by the census takers of the year 1880, under requirement of the act providing for taking the census of the Cherokee Nation, as the said register or schedule has been examined, revised, or amended by the committees of the present national council duly appointed for the purpose, and by them submitted to and accepted by this council, is hereby approved as a true and correct list of persons acknowledged and recognized to be citizens of the Cherokee Nation, at and within the time the said census was authorized to be taken.

SEC. 10. There shall be made in fair and legible handwriting, and under the supervision of the Principal Chief, a neat and complete alphabetical transcript, or copy, of all names of citizens and non-citizens to be found in the census returns, revised and amended as before mentioned, with such descriptive, matters and things, as are attached to each name. The work of making such copy shall be done by two clerks of the executive department, duly appointed, and instructed by the Principal Chief to perform the same, and who shall receive as compensation therefor, when the said work shall have been finished, approved and filed as provided by this act, the sum of two hundred and fifty (250) dollars each, for which amounts, the Principal Chief is authorized to draw preferred warrants upon the general fund. The said transcript, or copy, shall be made upon blank forms of the like kind furnished the census takers to take the census of 1880.

SEC. 11. When the said copy shall be made and completed, as hereinbefore provided, the "returns" of each district as copied, shall be by the said clerks, submitted to the Principal Chief, duly certified to by them as to pages, number of names in each schedule, and that the copy has been made correctly according to the provisions of this act. When so certified, and upon the examination of the Principal Chief approved by him, he shall be authorized to endorse the copy of the returns of each district as so approved, and place the same on file in the executive office for safe keeping and general reference under his care and direction.

SEC. 12. Any person, citizen of this Nation at the time of taking the census of 1880, (March and April,) who shall have been inadvertently omitted to be registered by the census takers or the committee appointed to revise the census, and whose name does not appear enrolled or recorded otherwise, and who shall desire to be enrolled as a citizen, shall be required to make satisfactory showing to the Principal Chief, by methods and evidence which he may consider sufficient in such case, that such person was a citizen of the Nation when the census was being taken, and of what district; and the Principal Chief is required to report the names of all persons who shall apply under this section, with the material facts ascertained by him in each case, to the National Council of 1881, for their information and action.

SEC. 13. All persons, whose names have been reported by the census takers in schedule 1, as citizens, and whom the revising committee of this council have marked, and signified as not entitled to be so returned, shall be summoned by the Principal Chief to appear before the commission on citizenship, at their next September session, 1881, for the adjudication of their claims, according to the provisions of law relating to "doubtful citizens," and the names of all persons who have appeared, or shall appear before said commission as "doubtful citizens" either by authority of the act of December 3d, 1879, authorizing the taking of the census, not including "new claimants" enrolled in schedule 4, or by authority of this act, in whose favor the said

commission have decided or shall decide, shall be by the Executive Secretary attached to the official copy of citizens hereinbefore authorized to be made and filed in the Executive Office.

[Tahlequah, C. N.]

Approved December 9th, 1880.

D. W. BUSHYHEAD,

Principal Chief, C. N.

## CHAPTER XV.

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### SPECIAL ACTS.

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### ARTICLE I.

#### AN ACT AUTHORIZING THE ESTABLISHMENT OF A SCHOOL BY THE AMERICAN HOME MISSIONARY SOCIETY.

SEC. 1. Permission is hereby granted to the Home Missionary Society to establish a school within the limits of the Cherokee Nation, with the privileges, and under the restrictions of the fourteenth article of the treaty of 1866; *provided*, that said school shall not occupy for buildings and grounds more than fifteen acres.

SEC. 2. Hon. D. W. Bushyhead, Principal Chief, and W. P. Ross, A. N. Chamberlain and A. W. Timberlake, are hereby appointed to represent the Cherokee Nation in locating said school. (Dec. 11th, 1880.)

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## ARTICLE II.

AN ACT AUTHORIZING THE PRINCIPAL CHIEF TO APPOINT A  
COMMISSION OF TWO PERSONS TO VISIT THE CHERO-  
KEES OF NORTH CAROLINA FOR PURPOSES  
THEREIN STATED.

SEC. 3. The condition of the Cherokees now residing in the State of North Carolina being that of the most hopeless poverty, without schools, or the means of an independent livelihood, and it being the desire of the Cherokee Nation to again invite its people in one body politic,

SEC. 4. The Principal Chief is hereby authorized to appoint two Commissioners, by and with the advice and consent of the senate, to proceed without unnecessary delay to the State of North Carolina, and invite the Cherokees that reside there to remove into the Cherokee Nation.

SEC. 5. The Commission appointed by the Cherokee Nation are authorized to confer with and perfect such arrangements with a like Commission appointed by the U. S. Government, to effect the removal of the Cherokees of North Carolina.

SEC. 6. A sum equal to three (\$3.00) dollars per diem while in actual service with their traveling and necessary expenses, estimated at \$700.00, is allowed, and the appropriation is hereby made to cover the same—the warrant to be made a preferred warrant.

SEC. 7. The above Commissioners shall report the success of their mission, without delay, to the Prin-

cipal Chief, who shall at once give the delegation such instructions in the premises as he might deem necessary to facilitate the removal of the North Carolina Cherokees to the Cherokee Nation.

[Tahlequah, C. N.]

Approved December 3d, 1880.

D. W. BUSHYHEAD,

Principal Chief, C. N.

### ARTICLE. III.

#### AN ACT AUTHORIZING THE APPOINTMENT OF THREE COMMISSIONERS TO CONFER WITH HON. J. Q. TUFTS.

SEC. 8. The Principal Chief is hereby authorized to appoint, with the advice and consent of the senate, three commissioners on part of the Cherokee Nation, for the purpose of meeting Hon. J. Q. Tufts, U. S. Commissioner, for the purpose of drafting articles of agreement if found duly authorized, for the final settlement of the status of the colored persons residing in the Cherokee Nation, and embraced in the treaty of July, 19th, 1866, between the United States and the Cherokee Nation.

SEC. 9. Any articles of agreement entered into between the said commissioners, on the part of the Cherokee Nation, and Hon. John Q. Tufts, United States Commissioner, shall be submitted to the National Council of the Cherokee Nation for approval.

SEC. 10. After the agreements have been thus approved, they shall be transmitted to the Commis-

sioner of Indian Affairs, to be ratified by the Congress of the United States before the same shall be binding.

Approved November 23d, 1880.

#### ARTICLE IV.

##### AN ACT PROVIDING FOR A MEDICAL SUPERINTENDENT FOR THE MALE AND FEMALE SEMINARIES, INSANE ASYLUM, AND NATIONAL PRISON.

SEC. 11. There is constituted a medical superintendent for the male and female seminaries, insane asylum, and Jail, who shall be a citizen of the Cherokee Nation, and a regular graduate from some reputable medical institution, and whose term of office shall be four years, and who shall be selected by joint ballot of the National Council, and commissioned by the Principal Chief.

SEC. 12. Said superintendent shall receive as his salary, the sum of one thousand (1,000) dollars out of the school fund, two hundred and fifty (250) dollars out of the asylum fund, and two hundred and fifty (250) dollars out of the general fund, per annum, for the payment of which, quarterly, the Principal Chief will be authorized to draw warrants on the treasury, payable out of the respective funds.

SEC. 13. The said superintendent shall furnish his own medicines and medical apparatus without any cost to the Nation. Said superintendent shall not be allowed to live and board at either of said institutions,

but shall be required to live in the vicinity convenient to said institutions, or in the town of Tahlequah, as might best suit his convenience.

SEC. 14. It shall be the duty of said superintendent, as a physician, to properly attend to the inmates of said male and female high schools, insane asylum, and jail, and to administer to them without unnecessary delay, and to the exclusion of all other business, such medical skill and attention as their condition may require, and to report to the National Council, in each year, the general condition as to health, etc., of the inmates of said institutions, with such advice and recommendations as he may deem proper.

SEC. 15. The Principal Chief shall be authorized to fill any vacancy in said office caused either by death, resignation, or removal; *provided*, that the Principal Chief shall be authorized to remove said medical superintendent from office for any failure on his part to do his duty as defined by law, or for incompetency. (Nov. 18th, 1880.)

## ARTICLE V.

### AN ACT PROVIDING FOR THE APPOINTMENT OF A SPECIAL COMMISSION TO TRY, AND SETTLE, CLAIMS TO CHEROKEE CITIZENSHIP.

SEC. 16. It is of the utmost importance to the Cherokee Nation that the claims of certain persons to citizenship hereof be speedily and permanently

settled by competent authority; *and whereas*, there is a constant influx of claimants to Cherokee citizenship, therefore, it becomes necessary that there should be established a permanent tribunal for the adjudication of such cases.

SEC. 17. There is hereby created a special commission, to be designated The Commission on Citizenship. The commission on citizenship shall consist of three members, to be nominated and commissioned by the Principal Chief with the advice and consent of the senate, and shall constitute a tribunal of last resort in the hearing and determining the cases hereinafter designated.

SEC. 18. The National Council, in joint session, shall elect one of the three commissioners (elect) to act as president.

SEC. 19. They shall, at the same time, elect one attorney for the Nation, who shall also be commissioned by the Principal Chief, who shall act for the Nation in all cases undergoing adjudication by the commission.

SEC. 20. The commission on citizenship, and the attorney for the Nation, before entering upon their duties shall qualify to support the constitution and laws of the Cherokee Nation, and to discharge their duties without fear or favor and to the best of their ability.

SEC. 21. The president of the commission on citizenship shall preside at the sessions of the same; in his absence, or inability to serve, the senior (by age) member present shall preside.

SEC. 22. Two members of the commission shall be competent to transact business.

SEC. 23. The commission on citizenship shall have authority to appoint and qualify one clerk, one interpreter, and to define their respective duties. They shall also have the right to command the presence and services of the sheriff of Tahlequah district, or his deputy, during their sessions, who shall be allowed one dollar per day while attending the sessions of the commission on citizenship, separate from his salary. The said sheriff shall have authority to send summons to the several district sheriffs, to be served without delay by them, and returned, without any other compensation than that of their salaries.

SEC. 24. The commission on citizenship shall have cognizance of, and exercise complete jurisdiction over all cases, arising under the constitution and laws of the Cherokee Nation, involving the right to citizenship of said Nation as hereinafter specified:

1st. Wherein a claimant to citizenship has applied to the late commission on citizenship and no final action taken, or to the National Council since the expiration of the commission on citizenship, or where application for citizenship may be made to the National Council, prior to the first meeting of the commission on citizenship herein created.

2d. Of all cases where the National Council has adjudicated the same by a decision adverse to the claimants, and the claimants have appealed from the jurisdiction of the Cherokee Nation to that of the

United States, subsequent to the date of the treaty of July 19th, 1866, and whose cases have been reported by the United States Agent, under instructions from the Department of the Interior, to the Principal Chief, and are now on file in his office, and which have not been investigated and final decision given by the late commission.

3d. Of all cases where the claimants have ignored the authorities of the Cherokee Nation and appealed to those of the United States.

4th. Of all cases where citizens of the United States have married into this Nation in violation of the law prohibiting the marriage of persons previously married without having obtained a divorce.

5th. Of all cases of claimants petitioning for citizenship not embraced in the foregoing classification of claimants.

6th. Of all cases of persons of African descent arising under the Cherokee treaty of July 19th, 1866, where the applicants claim to have complied with the treaty but have failed to receive recognition as citizens by competent authority, and who have not had decisions adverse to them by competent authority.

SEC. 25. In decreeing the right to citizenship in the Cherokee Nation the commission shall be governed by the provisions contained in the 5th section of amendments to article 3d of the constitution. The right of citizenship in the Cherokee Nation by virtue of the foregoing provisions shall not be deemed as conferring the like right upon any person not an Indian, who may

be connected with such person by blood or affinity, unless such person shall comply with the provisions of article 15th, chapter 12th, new (revised) code, relating to intermarriage.

SEC. 26. The commission on citizenship may admit, as evidence in any of the cases herein named, the oral testimony of witnesses under oath, decisions, records, or other papers, or certified copies thereof, in the clerk's office of the National Council, or of the supreme court of the Cherokee Nation, duly authenticated, pertaining to any case brought before it under this act, and shall give such weight as to the credibility of such evidence in making up their judgment thereon as they may deem it entitled to. They may in their discretion limit the number of witnesses that may be introduced to establish the same fact in any one case, and fix the period for hearing and determining the same.

SEC. 27. The Commission shall keep in a book to be used for that purpose a docket of all cases tried, with their decisions thereon, a copy of each decision to be furnished to the claimant whether admitted or not, and such decision shall be final.

SEC. 28. The evidence in every case tried by the commission shall be carefully arranged, labeled, and numbered to correspond with the national records.

SEC. 29. The commission on citizenship shall hold their sessions at Tahlequah.

SEC. 30. The commission on citizenship shall meet twice a year and hold one month at each meeting. The time of meeting shall be January and September of each year; *provided*, however, that they shall hold a preliminary meeting at Tahlequah for the purpose of organizing and giving public notice for the information of claimants, so that they may be ready for trial at the regular meeting of the commission, time of preliminary to be fixed by themselves. The members of the commission on citizenship shall each receive for their services the sum of four dollars per day, the attorney, clerk, and interpreter the same (four dollars per day,) while in actual service, payment to be made from the general fund on preferred warrants of the Principal Chief, based on estimate for services rendered by the commission while in the discharge of their duty.

SEC. 31. Witnesses summoned and appearing for the Nation, shall be allowed the same pay that is allowed witnesses in criminal cases, payable in the same manner, upon certificates issued, recorded, and reported by the clerk of the commission.

SEC. 32. The terms of the members of the commission shall be co-extensive with that of the body electing them.

SEC. 33. The commission shall, through the office of the Principal Chief, and not later than the second Monday of November of each year, report the result of their proceedings for the information of the National Council; *provided*, that all claimants for citizenship

embraced within the provisions of this act, who shall refuse to bring their cases before the commission on citizenship for adjudication, and all such as shall be rejected by the commission, shall be reported to the Principal Chief as such, and the Principal Chief shall at once demand of the Secretary of the Interior, or of the President of the United States, their immediate expulsion from the Cherokee Nation.

[Tahlequah, C. N.]

Approved November 26th, 1879.

## ARTICLE VI.

### GENERAL ENACTMENT,

In reference to special acts of Council admitting to citizenship, and vesting rights and privileges in certain individuals by name, which special acts, not being of a general interest, are omitted from this compilation of the Executive Record of laws.

SEC. 34. All acts, or parts of acts, through and by virtue of which private rights have been vested or conferred upon individuals, now citizens of this Nation and in the possession and enjoyment of such rights, shall be, and continue in force as heretofore since their enactment, to such extent, and to such time only, as such rights may attach to and vest in such persons, agreeably to the laws of this Nation, and the terms and provisions of the acts, or parts of acts, vesting such rights.

# CHAPTER XVI.

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## ARTICLE I.

### RULES FOR CONSTRUING THE COMPILED LAWS OF THE CHEROKEE NATION.

SEC. 1. All words and phrases used in the statutes of this Nation shall be construed according to their common and ordinary acceptation and meaning; but technical words and phrases shall be construed according to their technical meaning, as established by the profession using them.

SEC. 2. Words used in the singular number only, either as descriptive of persons or things, shall extend to and embrace the plural number also; and in like manner words used in the plural number, shall extend to and embrace the singular number, except where a contrary intention is expressed.

SEC. 3. The word "month" shall be understood to mean a calendar month, and the word "year" a calendar year, unless a contrary intention is expressed.

SEC. 4. The word "person" shall apply to artificial as well as natural persons.

SEC. 5. Words in the masculine gender shall embrace a female, as well as a male, unless a contrary intention is manifest.

SEC. 6. When process shall be required to be served, or notice given any number of days, the day of serving the process, or of giving the notice, shall be excluded, and the day of appearance included, and so in all other cases where any number of days shall be prescribed, one day shall be excluded and the other included. When the last day falls on Sunday, it shall be excluded, but in all other cases Sunday shall be reckoned in the computation of time.

# CHAPTER XVII.

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## ARTICLE I.

### COMPACT BETWEEN THE SEVERAL TRIBES OF INDIANS.

SEC. 1. The removal of the Indian tribes from the homes of their fathers, east of the Mississippi, has there extinguished our ancient council fires, and changed our position in regard to each other; *and whereas*, by the solemn pledge of treaties, we are assured by the government of the United States, that the lands we now possess shall be the undisturbed home of ourselves and our posterity forever; therefore, we, the authorized representatives of the several Nations, parties hereunto, assembled around the great council fire kindled in the west at Tahlequah, in order to preserve the relations between our several communities, to secure to all them respective rights, and to promote the general welfare, do enter into the following compact:

SEC. 2. Peace and friendship shall forever be maintained between the Nations, parties to this compact, and between their respective citizens.

SEC. 3. Revenge shall not be cherished, nor retaliation practised, for offenses committed by individuals.

SEC. 4. To provide for the improvement of our people in agriculture, manufactures, and other domestic arts, adapted to promote the comfort and happiness of our women and children, a fixed and permanent location on our lands is an indispensable condition. In order, therefore, to secure these important objects, to prevent any future removal, and to transmit to our posterity an unimpaired title to the lands guaranteed to our respective Nations by the United States, we hereby solemnly pledge ourselves to each other, that no Nation, party to this compact, shall, without the consent of all the other parties, cede, or in any manner alienate, to the United States, any part of their present territory.

SEC. 5. If a citizen of one Nation commits wilful murder, or other crime, within the limits of another Nation, party hereto, he shall be subject to the same treatment as if he were a citizen of that Nation.

SEC. 6. In cases of property stolen, or taken by force or fraud, the property, if found, shall be restored to the owner; but if not found, the convicted person shall pay the full value thereof.

SEC. 7. If a citizen of any Nation, party to this compact, shall commit murder or other crime, and flee from justice into the territory of any other Nation, party hereto, such criminal shall, on demand of the Principal Chief of the Nation from which he fled (accompanied with reasonable proof of his guilt,) be delivered up to the authorities of the Nation having jurisdiction of the crime.

SEC. 8. We hereby further agree, that if any one of our respective citizens shall commit murder, or other crime, upon the person of any other citizen, in any place beyond the limits of our several territories, the person so offending, shall be subject to the same treatment, as if the offense had been committed within the limits of his own Nation.

SEC. 9. Any citizen of one Nation may be admitted to citizenship in any other Nation, party hereto, by consent of the proper authorities of such Nation.

SEC. 10. The use of ardent spirits being a fruitful source of crime and misfortune, we recommend its suppression within our respective limits, and agree that no citizen of one Nation shall introduce it into the territory of any other Nation, party to this compact.

Done in General Council, around the *Great Council Fire*, at Tahlequah, Cherokee Nation, this the third day of July, 1843.

#### REPRESENTATIVES OF THE CHEROKEES.

HAIR CONRAD, his X mark,  
SAMUEL DOWNING; his X mark,  
TURTLE FIELDS, his X mark,  
STOP, his X mark, THOMAS FOREMAN,  
J. VANN,  
ARCHIBALD CAMPBELL, his X mark,  
OLD FIELD, his X mark,  
MICHAEL WATERS,  
JOHN LOONEY, his X mark,  
GEORGE LOWREY,  
TOBACCO WILL; his X mark,  
THOMAS WOODWARD, his X mark,  
DUTCH, his X mark,  
CHARLES COODEY.

## REPRESENTATIVES OF THE CREEKS.

TUS-TA-NUG-GEE-MATHLA, his X mark,  
IN-THER-NIS-HARJO, his X mark,  
HO-LER-TER-MICCO, his X mark,  
UFALAR HARJO, his X mark,  
CHILLY McINTOSH,  
OAK-CEEN HARJO, his X mark,  
HO-TUL-CA HARJO, his X mark.

## REPRESENTATIVES OF THE OSAGES.

ALEXANDER CHOUTEAU, Osage Int.  
SHIN-KA-WA-SAH, or BELBAZO, his X mark,  
BLACK DOG, his X mark,  
GRON-SAN-TAH, his X mark,  
GRA-TAM-E-SAH, his X mark.

Be it known that the National Council of the Cherokee Nation, in annual council convened, have this day approved and confirmed the within articles of a compact, entered into the day and date therein named, by the authorized representatives of the Nations, parties thereunto.

Done in National Council, at Tahlequah, Cherokee Nation, this second day of November, A. D. one thousand eight hundred and forty-three.

CHARLES COODEY,  
President National Committee.

JAMES M. PAYNE,  
Speaker National Council.

APPROVED :  
JNO. ROSS.  
V

## ARTICLE II.

## ARTICLES OF AGREEMENT WITH THE DELAWARES,

Made this 8th day of April, A. D. 1867, between the Cherokee Nation, represented by William P. Ross, Principal Chief, Riley Keys and Jesse Bushyhead, delegates, duly authorized parties of the first part, and the Delaware tribe of Indians, represented by John Connor, Principal Chief, Charles Journey cake, Assistant Chief, Isaac Journey cake and John Sar-coxie, delegates, for and on behalf of said Delaware tribe, duly authorized, witnesseth:

WHEREAS, by the 15th article of a certain treaty between the United States and the Cherokee Nation, ratified August 11, 1866, certain terms were provided, under which friendly Indians might be settled upon unoccupied lands in the Cherokee country, east of the line of 96° of west longitude, the price to be paid for such lands to be agreed on by the Indians to be thus located and the Cherokee Nation, subject to the approval of the President of the United States; *and whereas*, by a treaty between the United States and the Delaware tribe of Indians, ratified August 10th, 1866, the removal of the said Delawares to the Indian country, south of Kansas, was provided for, and in the 4th article whereof an agreement was made by the United States to sell to the Delawares a tract of land, being part of a tract the cession of which by the Cherokees to the United States was then contemplated; *and whereas*, no such cession of land was made by the

Cherokees to the United States, but, in lieu thereof, terms were provided as hereinbefore mentioned, under which friendly Indians might be settled upon their lands; *and, whereas*, a full and free conference has been held between the representatives of the Cherokees and the Delawares, in view of the treaties herein referred to, looking to a location of the Delawares upon the Cherokee lands, and their consolidation with said Cherokee Nation: Now, therefore, it is agreed between the parties hereto, subject to the approval of the President of the United States, as follows:

The Cherokees, parties of the first part, for and in consideration of certain payments, and the fulfillment of certain conditions hereinafter mentioned, agree to sell to the Delawares, for their occupancy, a quantity of land east of the line of the 96° west longitude, in the aggregate equal to 160 acres of land for each individual of the Delaware tribe who has been enrolled upon a certain register made February 18, 1867 by the Delaware agent, and on file in the office of Indian affairs, being the list of the Delawares who elect to remove to the "Indian country," to which list may be added, only with the consent of the Delaware Council, the names of such other Delawares as may, within one month after the signing of this agreement, desire to be added thereto; and the selections of the lands to be purchased by the Delawares may be made by said Delawares in any part of the Cherokee reservation east of said line of 96°, not already selected and in possession of other parties; and in case the Cherokee lands

shall hereafter be allotted among the members of said Nation, it is agreed that the aggregate amount of land herein provided for the Delawares, to include their improvements according to the legal subdivisions, when surveys are made (that is to say, 160 acres for each individual,) shall be guaranteed to each Delaware incorporated by these articles into the Cherokee Nation; nor shall the continued ownership and occupancy of said land by any Delaware so registered be interfered with in any manner whatever without his consent, but shall be subject to the same conditions and restrictions as are by the laws of the Cherokee Nation imposed upon the native citizens thereof; *provided*, that nothing herein shall confer the right to alienate, convey, or dispose of any such lands, except in accordance with the constitution and laws of said Cherokee Nation.

And the said Delawares, parties of the second part, agree that there shall be paid to the said Cherokees, from the Delaware funds, now held or hereafter received by the United States, a sum of money, equal to one dollar per acre, for the whole amount of 160 acres of land, for every individual Delaware who has already been registered upon the aforesaid list, made February 18, 1867; with the additions thereto, heretofore provided for. And the Secretary of the Interior is authorized and requested to sell any United States stocks belonging to the Delawares to procure funds necessary to pay for said lands; but, in case he shall not feel authorized, under existing treaties, to sell such bonds belonging to the Delawares, it is agreed that he

may transfer such United States bonds to the Cherokee Nation, at their market value of the date of such transfer: And the said Delawares further agree, that there shall be paid, from their funds, now and hereafter to come into possession of the United States, a sum of money, which shall sustain the same proportion to the existing Cherokee National fund, that the number of Delawares registered as above mentioned, and removing to the Indian country, sustains to the whole number of Cherokees residing in the Cherokee Nation. And, for the purpose of ascertaining such relative numbers, the registers of the Delawares herein referred to, with such additions as may be made within one month from the signing of this agreement, shall be the basis of calculation as to the Delawares; and an accurate census of the Cherokees, residing in the Cherokee Nation, shall be taken, under the laws of that Nation, within four months, and properly certified copies thereof filed in the office of Indian Affairs, which shall be the basis of calculation as to the Cherokees. And, that there may be no doubt hereafter, as to the amount to be contributed to the Cherokee National fund by the Delawares, it is hereby agreed, by the parties hereto, that the whole of the invested funds of the Cherokees, after deducting all just claims thereon, is \$678,000. And the Delawares further agree, that in calculating the total amount of said National fund, there shall be added to the said sum of \$678,000, the sum of \$1,000,000, being the estimated value of the Cherokee neutral lands in Kansas, thus making the whole Cherokee

National fund \$1,678,000, and this last mentioned sum shall be taken as the basis for calculating the amount which the Delawares are to pay into the common fund; *provided*, that, as the \$678,000 of funds now on hand, belonging to the Cherokees, is chiefly composed of stocks of different values, the Secretary of the Interior may transfer, from the Delawares to the Cherokees, a proper proportion of the stocks now owned by the Delawares, of like grade and value, which transfer shall be in part of the *pro rata* contribution herein provided for by the Delawares to the funds of the Cherokee Nation; but the balance of the *pro rata* contribution by the Delawares to said fund, shall be in cash or United States bonds, at their market value. All cash, and all proceeds of stocks, whenever the same may fall due or be sold, received by the Cherokees from the Delawares under this agreement, shall be invested and applied in accordance with the 23d article of the treaty with the Cherokees, of August 11th, 1866.

On the fulfillment by the Delawares of the foregoing stipulations, all the members of the tribe, registered as above provided, shall become members of the Cherokee Nation, with the same rights and immunities, and the same participation (and no other,) in the national funds, as native Cherokees, save as hereinbefore provided. And the children hereafter born of such Delawares so incorporated into the Cherokee Nation, shall in all respects be regarded as native Cherokees.

WM. P. ROSS, Principal Chief,  
RILEY KEYES,  
Cherokee Delegation.

JOHN CONNOR, his X mark, Principal Chief,  
CHARLES JOURNEYCAKE,  
ISAAC JOURNEYCAKE,  
JOHN SARCOXIE, his X mark,  
Delaware Delegation.

Executed and delivered in our presence by the above named delegates of the Cherokee and Delaware Nations, at the city of Washington, in the District of Columbia, the day and year first above written.

JOHN G. PRATT,  
WM. A. PHILLIPS,  
EDWARD S. MENAGUS.

Ratified by the National Committee, June 15th, 1867.

SMITH CHRISTIE,  
President Nat. Committee.

JNO. YOUNG,  
Speaker of Council.

### ARTICLE III.

AGREEMENT BETWEEN SHAWNEES AND CHEROKEES, CONCLUDED JUNE 7TH, 1869, APPROVED BY THE  
PRESIDENT JUNE 9TH, 1869.

Articles of Agreement, made and entered into at Washington, D. C., this seventh day of June, A. D. 1869, by and between H. D. Reese and William P. Adair, duly authorized delegates representing the Cherokee Nation of Indians, having been duly appointed by the National Council of said Cherokees, parties of the first part, and Graham Rogers and Charles Tucker, duly

authorized delegates representing the Shawnee tribe of Indians, parties of the second part, witnesseth:

Whereas, it is provided by the fifteenth article of the treaty between the United States and the Cherokee Indians, concluded July 19th, 1866, that the United States may settle any civilized Indians, friendly with the Cherokees and adjacent tribes, within the Cherokee country, on unoccupied lands east of 96°, on such terms as may be agreed upon by any such tribe and the Cherokees, subject to the approval of the President of the United States, which shall be consistent with certain provisions specified in said article; and,

Whereas, the Shawnee tribe of Indians are civilized and friendly with the Cherokees and adjacent tribes, and desire to settle within the Cherokee country on unoccupied lands east of 96°:

It is therefore agreed, by the parties hereto, that such settlement may be made upon the following terms and conditions, viz:

That the sum of five thousand dollars belonging to the Shawnee tribe of Indians, and arising under the provisions of treaties between the United States and said Shawnee Indians, as follows, viz:

For permanent annuity for educational purposes, per fourth article treaty, 3d August, 1795, and third article, 10th of May, 1854, one thousand dollars;

For interest, at five per centum, on forty thousand dollars for educational purposes, per third article treaty, 10th May, 1854, two thousand dollars;

For permanent annuity, in specie, for educational purposes, per fourth article treaty, 29th September, 1817, and third article, 10th May, 1854, two thousand dollars; shall be paid annually to the Cherokee Nation of said Indians, and that the annuities and interest, as recited, and the investment or investments upon which the same are based, shall hereafter become and remain the annuities and interest and investment or investments of the Cherokee Nation of Indians, the same as they have been the annuities and interest and investments of the Shawnee tribe of Indians. And that the sum of fifty thousand dollars shall be paid to the said Cherokees, as soon as the same shall be received by the United States, for the said Shawnees, from the sale of the lands in the State of Kansas, known as the Absentee Shawnee Lands, in accordance with the resolution of congress, approved April 7th, 1869, entitled: "A resolution for the relief of settlers upon the Absentee Shawnee Lands in Kansas," and the provisions of the treaty between the United States and the Shawnee Indians, concluded May 10th, 1854, and also that the said Shawnees shall abandon their tribal organization.

And it is further agreed by the parties hereto that in consideration of the said payments and acts agreed upon, as hereinbefore stated, that the said Cherokees

will receive the said Shawnees—referring to those now in Kansas, and also to such as properly belong to said tribe who may be at present elsewhere, and including those known as the Absentee Shawnees, now residing in Indian Territory—into the country of the said Cherokees, upon unoccupied lands east of 96°, and that the said Shawnees shall be incorporated into and ever after remain a part of the Cherokee Nation, on equal terms in every respect, and with all the privileges and immunities of native citizens of said Cherokee Nation; *provided*, that all of said Shawnees who shall elect to avail themselves of the provisions of this agreement, shall register their names, and permanently locate in the Cherokee country, as herein provided, within two years from the date hereof, otherwise they shall forfeit all rights under this agreement.

In testimony whereof, the parties hereto have hereunto subscribed their names, and affixed their seals, on the day and year first above written.

[SEAL.]

H. D. REESE,

[SEAL.]

WM. P. ADAIR,

Delegates representing the Cherokee Nation of Indians.

[SEAL.]

GRAHAM ROGERS,

[SEAL.]

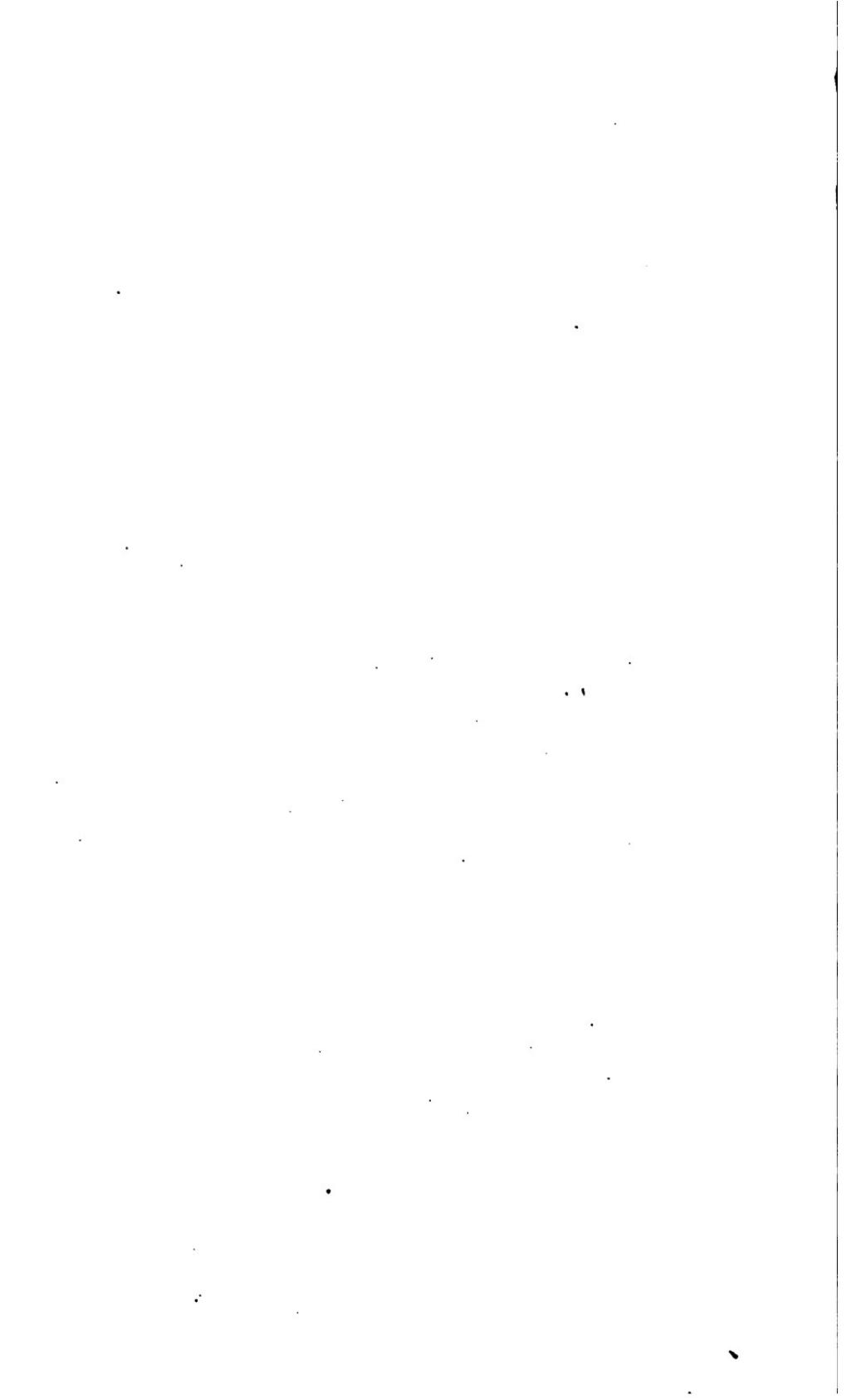
CHARLES TUCKER,

Delegates representing the Shawnee Tribe of Indians.

## ATTEST:

W. R. IRWIN,  
H. E. MCKEE,  
A. N. BLACKLIDGE,  
JAS. B. ABBOTT.





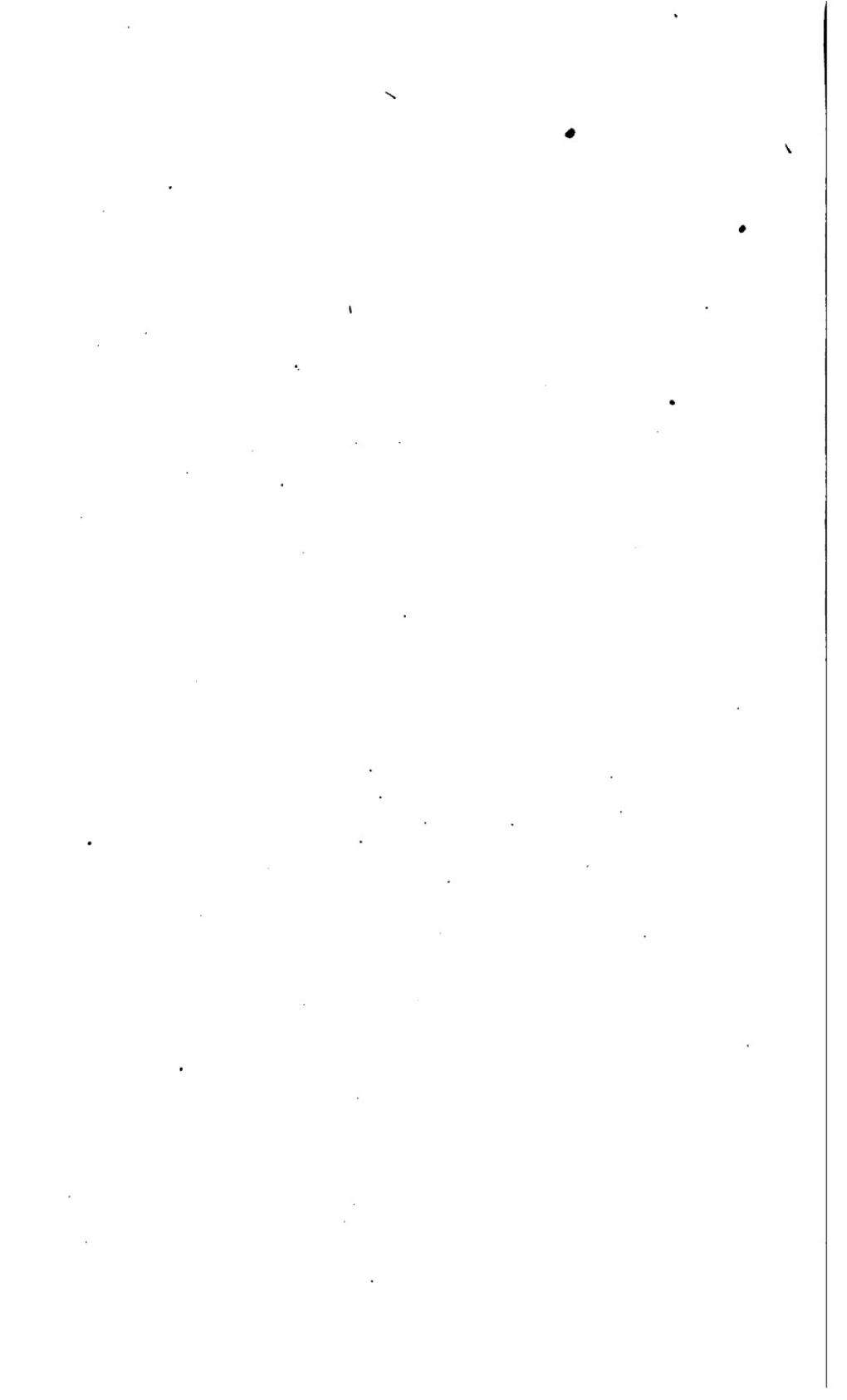
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## APPENDIX.

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# BOUNDARY OF THE CHEROKEE NATION.

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[See Constitution Sec. 1st., Amendments to Article I.]

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## TREATY OF 1833.

ART. 1. "The United States agree to possess the Cherokees, and to guarantee it to them forever, and that guarantee is hereby pledged, of seven millions of acres of land, to be bounded as follows, viz: Beginning at a point on the old western territorial line of Arkansas Territory, being twenty-five miles north from the point where the territorial line crosses Arkansas river; thence, running from said north point, south, on the said territorial line, to the place where said territorial line crosses the Verdigris river; thence, down the Verdigris river, to the Arkansas river; thence, down said Arkansas to a point where a stone is placed opposite to the east or lower bank of Grand river at its junction with the Arkansas; thence, running south, forty-four degrees west,

one mile; thence, in a straight line to a point four miles northerly from the mouth of the north fork of the Canadian; thence along the said four mile line to the Canadian; thence, down the Canadian to the Arkansas; thence, down the Arkansas, to that point on the Arkansas where the eastern Choctaw boundary strikes said river, and running thence with the western line of Arkansas Territory as now defined, to the southwest corner of Missouri; thence, along the western Missouri line, to the land assigned the Senecas; thence, on the south line of the Senecas to Grand River; thence, up said Grand river, as far as the south line of the Osage reservation extended, if necessary; thence up and between said south Osage line, extended west if necessary, and a line drawn due west from the point of beginning, to a certain distance west, at which a line running north and south from said Osage line to said due west line, will make seven millions of acres within the whole described boundaries. In addition to the seven millions of acres of land, thus provided for and bounded, the United States further guaranty to the Cherokee Nation a perpetual outlet west, and a free and unmolested use of all the country lying west of the western boundary of said seven millions of acres, as far west as the sovereignty of the United States and their right of soil extend. Provided, however, that if the saline or salt plain, on the western prairie, shall fall within said limits prescribed for said outlet, the right is reserved to the United States to permit other tribes of red men to get salt on said plain in common with the Cherokees; and

letters patent shall be issued by the United States as soon as practicable for the land hereby guaranteed."

### TREATY OF 1835.

ART. 2. "Whereas, by the treaty of May 6, 1828, and the supplementary treaty thereto, of February 14th, 1833, with the Cherokees west of the Mississippi, the United States guaranteed and secured to be conveyed by patent, to the Cherokee Nation of Indians, the following tract of country; "Beginning at a point on the old western territorial line of Arkansas Territory, being twenty-five miles north from the point where the territorial line crosses Arkansas river; thence running from said north point, south on the said territorial line where the said territorial line crosses Verdigris river; thence, down said Virdigris river to the Arkansas river; thence down said Arkansas to a point where a stone is placed opposite the east or lower bank of Grand river, at its junction with the Arkansas; thence, running south forty-four degrees west one mile; thence in a straight line to a point four miles northerly from the mouth of the north fork of the Canadian; thence, along the said four mile line to the Canadian; thence, down the Canadian to the Arkansas; thence, down the Arkansas to that point on the Arkansas where the eastern Choctaw boundary strikes said river, and running thence with the western line of Arkansas Territory, as now defined, to the southwest corner of Missouri; thence, along the

western Missouri line to the land assigned the Senecas; thence, on the south line of the Senecas to Grand river; thence, up said Grand river, as far as the south line of the Osage reservation extended, if necessary; thence, up and between said south Osage line, extended west if necessary, and a line drawn due west from the point of beginning to a certain distance west, at which a line running north and south from said Osage line to said due west line, will make seven millions of acres within the whole described boundaries. In addition to the seven millions of acres of land thus provided for and bounded, the United States further guaranty to the Cherokee Nation a perpetual outlet west, and a free and unmolested use of all the country west of the western boundary of said seven millions of acres, as far west as the sovereignty of the United States and their right of soil extend.

PROVIDED, HOWEVER, That if the saline or salt plain on the western prairie shall fall within said limits prescribed for said outlet, the right is reserved to the United States to permit other tribes of red men to get salt on said plain in common with the Cherokees. And letters patent shall be issued by the United States as soon as practicable for the land hereby guaranteed,"

AND WHEREAS, it is apprehended by the Cherokees, that in the above cession there is not contained a sufficient quantity of land for the accommodation of the whole nation, on their removal west of the Mississippi, the United States, in consideration of the sum of five hundred thousand dollars, therefore hereby covenant

and agree to convey to the said Indians and their descendants, by patent, in fee simple, the following additional tract of land situated between the west line of the State of Missouri, and the Osage reservation; beginning at the southeast corner of the same, and runs north along the east line of the Osage lands fifty miles, to the northeast corner thereof; and thence, east to the west line of the State of Missouri; thence, with said line south fifty miles; thence, west to the place of beginning; estimated to contain eight hundred thousand acres of land; but it is expressly understood, that if any of the lands assigned the Quapaws shall fall within the aforesaid bounds, the same shall be reserved and excepted out of the lands above granted, and a pro rata reduction shall be made in the price to be allowed to the United States for the same by the Cherokees.

### PROMISE OF PATENT.

### TREATY OF 1835.

ART. 3. The United States also agree, that the lands above ceded by the treaty of February 14, 1833, including the outlet, and those ceded by this treaty, shall all be included in one patent, executed to the Cherokee Nation of Indians by the President of the United States, according to the provisions of the act of May 28, 1830. It is, however, agreed, that the military reservation at Fort Gibson shall be held by the United

States. But should the United States abandon said post and have no further use for the same, it shall revert to the Cherokee Nation. The United States shall always have the right to make and establish such post and military roads and forts in any parts of the Cherokee country, as they may deem proper for the interest and protection of the same, and the use of as much land, timber, fuel and materials of all kinds, for the construction and support of the same, as may be necessary; provided, that if the private rights of individuals are interfered with, a just compensation therefor shall be made.

#### TREATY OF 1835.

ART. 5. The United States hereby covenant and agree that the lands ceded to the Cherokee Nation in the foregoing article, shall, in no future time, without their consent, be concluded within the territorial limits or jurisdiction of any State or Territory. But they shall secure to the Cherokee Nation the right by their national councils, to make and carry into effect all such laws as they may deem necessary for the government and protection of the persons and property within their own country belonging to their people, or such persons as have connected themselves with them: Provided, always, that they shall not be inconsistent with the constitution of the United States, and such acts of Congress as have been or may be passed, regulating trade and intercourse with the Indians; and also, that

they shall not be considered as extending to such citizens and army of the United States as may travel or reside in the Indian country by permission, according to the laws and regulations established by the government of the same.

#### TREATY OF 1846.

ART. 1. That the lands now occupied by the Cherokee Nation shall be secured to the whole Cherokee people for their common use and benefit; and a patent shall be issued for the same, including the eight hundred thousand acres purchased, together with the outlet west promised by the United States, in conformity with the provisions relating thereto, contained in the third article of the treaty of 1835, and in the third section of the act of Congress, approved May 28th, 1830, which authorizes the President of the United States, in making exchanges of lands with the Indian tribes, "to assure the tribe or nation with which the exchange is made, that the United States will forever secure and guarantee to them, and their heirs or successors, the country so exchanged with them; and if they prefer it that the United States will cause a patent or grant to be made and executed to them for the same: PROVIDED ALWAYS, That such lands shall revert to the United States, if the Indians become extinct, or abandon the same."

# PATENT.

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THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL  
COME, GREETING:

WHEREAS, by certain treaties made by the United States of America with the Cherokee Nation of Indians of the sixth of May one thousand eight hundred and twenty eight, the fourteenth of February, one thousand eight hundred and thirty three, and the twenty ninth of December, one thousand eight hundred and thirty five, it was stipulated and agreed on the part of the United States, that in consideration of the promises mentioned in the said treaties, respectively, the United States should guaranty, secure and convey by patent to the said Cherokee Nation certain tracts of land; the description of which tracts, and the terms and conditions on which they were to be conveyed, are set forth in the second and third articles of the treaty of the twenty ninth of December, one thousand eight hundred and thirty five in the words following, that is to say:—

“Article 2d, Whereas by the treaty of May sixth one thousand eight hundred and twenty eight, and the supplementary treaty thereto of February fourteenth, one thousand eight hundred and thirty three, with the Cherokees west of the Mississippi, the United States guarantied and secured, to be conveyed by patent to the

Cherokee Nation of Indians the following tract of country: Beginning at a point on the old western territorial line of Arkansas territory, being twenty five miles north from the point where the territorial line crosses Arkansas river, thence running from said north point south on the said territorial line, where the said territorial line crosses Virdigris river; thence down said Virdigris river to the Arkansas river; thence down said Arkansas to a point where a stone is placed opposite the east or lower bank of Grand river, at its junction with the Arkansas; thence running south forty four degrees west one mile; thence, in a straight line, to a point four miles northerly from the mouth of the northfork of the Canadian; thence along the said four mile line to the Canadian; thence, down the Canadian to the Arkansas; thence, down the Arkansas to that point on the Arkansas where the eastern Choctaw boundary strikes said river, and running thence with the western line of Arkansas territory, as now defined, to the south west corner of Missouri; thence along the western Missouri line to the land assigned the Senecas; thence, on the south line of the Senecas to Grand river; thence, up said Grand river, as far as the south line of the Osages extended, if necessary; thence, up and between said south Osage line, extended west if necessary, and a line drawn due west from the point of beginning to a certain distance west, at which a line running north and south from said Osage line to said due west line, will make *seven millions of acres* within the whole described boundaries. In addition to the seven millions of acres of

land thus provided for and bounded, the United States further guaranty to the Cherokee Nation *a perpetual outlet west* and a free and unmolested use of all the country west of the western boundary of said seven millions of acres, as far west as the sovereignty of the United States and their right of soil extend. *provided, however,* that if the Saline or Salt Plain on the western prairie shall fall within said limits prescribed for said outlet, the right is reserved to the United States to permit other tribes of red men to get salt on said plain, in common with the Cherokees, and *letters patent* shall be issued by the United States as soon as practicable for the land hereby guarantied. *And whereas,* it is apprehended by the Cherokees that in the above cession there is not contained a sufficient quantity of land for the accommodation of the whole Nation, on their removal west of the Mississippi, the United States, in consideration of the sum of *five hundred thousand dollars* therefore hereby covenant and agree to convey to the said Indians and their descendants, by patent, in fee simple, the following *additional tract of land*, situated between the west line of the state of Missouri and the Osage reservation, beginning at the south east corner of the same, and runs north along the east line of the Osage lands fifty miles, to the north east corner thereof; and thence east to the west line of the State of Missouri; thence with said line south, fifty miles; thence, west to the place of beginning; estimated to contain *eight hundred thousand acres of land*; but it is expressly understood, that if any of the lands assigned the *Quapaws*

shall fall within the aforesaid bounds, the same shall be reserved and excepted out of the lands above granted, and a pro-rata reduction shall be made in the price to be allowed to the United States for the same by the Cherokees.

ART. 3d. The United States also agree that the lands above ceded by the treaty of February fourteenth, one thousand eight hundred and thirty three, including the outlet, and those ceded by this treaty, shall all be included in one patent, executed to the Cherokee Nation of Indians by the President of the United States, according to the provisions of the act of May twenty eighth, one thousand eight hundred and thirty. It is however agreed that the military reservation at Fort Gibson shall be held by the United States. But should the United States abandon said post, and have no further use for the same, it shall revert to the Cherokee Nation. The United States shall always have the right to make and establish such *post* and *military roads* and *forts*, in any part of the Cherokee country, as they may deem proper for the interest and protection of the same, and the free use of as much land, timber, fuel and materials of all kinds, for the construction and support of the same, as may be necessary. *Provided*, that if the private rights of individuals are interfered with, a just compensation therefor shall be made." *And whereas*, the United States have caused the said tract of seven millions of acres, together with the said perpetual outlet, to be surveyed in one tract, the boundaries whereof are as follows: Beginning at a mound of rocks

four feet square at base, and four and a half feet high, from which another mound of rocks bears south one chain, and another mound of rocks bears west one chain, on what has been denominated the old western territorial line of Arkansas territory twenty five miles north of Arkansas river; thence south twenty one miles and twenty eight chains to a post on the north east bank of the Virdigris river, from which a hackberry, fifteen inches diameter, bears south sixty one degrees thirty one minutes east, forty three links, marked C. H. L. and a cottonwood forty two inches diameter bears south twenty one degrees fifteen minutes east, fifty links, marked C. R. K. L.; thence down the Virdigris river, on the northeast bank, with its meanders to the junction of the Virdigris and Arkansas rivers; thence from the lower bank of Virdigris river on the north bank of Arkansas river, south forty four degrees, thirteen minutes, east, fifty seven chains, to a post on the south bank of Arkansas, opposite the eastern bank of Neosho river, at its junction with Arkansas, from which a red oak thirty six inches diameter, bears south seventy five degrees, forty five minutes west, twenty four links, and a hickory, twenty four inches diameter, bears south eighty nine degrees east four links; thence south fifty three degrees west, one mile to a post from which a rock bears north fifty three degrees east, fifty links, and a rock bears south eighteen degrees, eighteen minutes west, fifty links; thence south eighteen degrees, eighteen minutes west thirty three miles twenty eight chains and eighty links, to a rock from which

another rock bears north eighteen degrees eighteen minutes east fifty links, and another rock bears south fifty links, thence south four miles to a post on the lower bank of the north fork of Canadian river, at its junction with Canadian river, from which a cotton-wood, twenty-four inches diameter, bears north eighteen degrees east, forty links, and a cotton-wood, fifteen inches diameter, bears south nine degrees east fourteen links; thence down the Canadian river on its north bank to its junction with Arkansas river; thence down the main channel of Arkansas river to the western boundary of the state of Arkansas, at the northern extremity of the eastern boundary of the lands of the Choctaws, on the south bank of Arkansas river, four chains and fifty four links, east of Fort Smith; thence north seven degrees, twenty five minutes west, with the western boundary of the State of Arkansas, seventy six miles, sixty four chains and fifty links, to the south west corner of the State of Missouri; thence north on the eastern boundary of the state of Missouri, eight miles, forty nine chains and fifty links, to the north bank of Cowskin, or Seneca river, at a mound six feet square at base, and five feet high, in which is a post marked on the south side Cor. n. Ch. Ld; thence west on the southern boundary of the lands of the Senecas, eleven miles and forty eight chains, to a post on the east bank of Neosho river, from which a maple, eighteen inches diameter, bears south thirty-one degrees east, seventy-two links; thence up Neosho river, with its meanders, on the east bank, to the southern boundary of Osage

lands, thirty six chains and fifty links, west of the southeast corner of the lands of the Osages, witnessed by a mound of rocks on the west bank of Neosho river; thence west on the southern boundary of the Osage lands, to the line dividing the territory of the United States from that of Mexico, two hundred and eighty eight miles, thirteen chains and sixty six links, to a mound of earth, six feet square at base, and five and a half feet high, in which is deposited a cylinder of charcoal, twelve inches long and four inches diameter; thence south along the line of the territory of the United States and of Mexico, sixty miles and twelve chains, to a mound of earth six feet square at base and five and a half feet high, in which is deposited cylinder of charcoal, eighteen inches long and three inches diameter; thence east, along the northern boundary of Creek lands, two hundred and seventy three miles, fifty five chains and sixty six links, to the beginning; containing within the survey *thirteen millions, five hundred and seventy four thousand, one hundred and thirty five acres and fourteen hundredths of an acre.* And whereas, the United States have also caused the said tract of eight hundred thousand acres to be surveyed, and have ascertained the boundaries thereof to be as follows:—

Beginning at southeast corner of Osage lands, described by a rock, from which a red oak twenty inches diameter bears south twenty seven degrees east, seventy six links, and a burr oak, thirty inches diameter, bears south fifty nine degrees west one chain; and another

burr oak, thirty inches diameter bears north eight degrees west, one chain and thirty seven links; and another burr oak forty inches diameter bears north thirty degrees west, one chain and eighty one links and running east twenty five miles to a rock on the western line of the State of Missouri, from which a post oak ten inches diameter bears north forty eight degrees, thirty minutes, east, four chains; and a post oak twelve inches diameter bears south sixty two degrees east, five chains; thence north, with the western boundary of the State of Missouri, fifty miles, to a mound of earth, five feet square at base and four and a half feet high; thence west twenty five miles to the northeast corner of the lands of the Osages, described by a mound of earth six feet square at base and five feet high; thence south along the eastern boundary of Osage lands, fifty miles, to the beginning; containing eight hundred thousand acres.

THEREFORE, in execution of the agreements and stipulations contained in the said several treaties, the United States have *given* and *granted*, and by these presents do *give* and *grant*, unto the said Cherokee nation, the two tracts of land, so surveyed and herein-before described, containing in the whole *Fourteen millions, three hundred and seventy four thousand, one hundred and thirty-five acres, and fourteen hundredths of an acre*, TO HAVE AND TO HOLD THE SAME, together with all the rights, privileges and appurtenances thereto belonging to the said CHEROKEE NATION FOREVER; subject, however, to the right of the United States to

permit other tribes of red men to get salt on the salt plain on the western prairie referred to in the second article of the treaty of the twenty ninth of December, one thousand eight hundred and thirty five, which salt plain has been ascertained to be within the limits prescribed for the outlet agreed to be granted by said article; and subject also to all the other rights reserved to the United States, in and by the articles hereinbefore recited, to the extent and in the manner, in which the said rights are so reserved; and subject also to the condition provided by the act of Congress of the twenty eighth of May, one thousand eight hundred and thirty, referred to in the above recited third article, and which condition is, that the lands hereby granted shall revert to the United States, if the said Cherokee Nation becomes extinct, or abandons the same.

IN TESTIMONY WHEREOF I, MARTIN VAN BUREN,  
PRESIDENT OF THE UNITED STATES OF AMERICA, have  
caused these letters to be made PATENT, and the SEAL  
of the GENERAL LAND OFFICE to be hereunto affixed.

GIVEN under my hand, at the CITY of WASHINGTON,  
the thirty first day of December, in the year of our  
Lord, one thousand eight hundred and thirty-eight, and  
of the Independence of the United States, the sixty-third.

[SEAL.] By the President, M. VAN BUREN.

[SIGNED.] H. M. GARLAND,

Recorder of the General Land Office.

## MODIFICATION OF BOUNDARY.

### TREATY OF 1866.

ART. 17. The Cherokee nation hereby cedes, in trust of the United States, the tract of land in the State of Kansas which was sold to the Cherokees by the United States, under the provisions of the 2nd article of the treaty of 1835; and also that strip of the land ceded to the nation by the 4th article of said treaty which is included in the State of Kansas, and the Cherokees consent that said lands may be included in the limits and jurisdiction of said State.

[REMARK:—By operation of the foregoing article the So-called “Neutral Lands” and “Kansas Strip” were sold and the proceeds invested for the Nation.]

ART. 16. The United States may settle friendly Indians in any part of the Cherokee country west of 96°, to be taken in a compact form in quantity not exceeding 160 acres for each member of each of said tribes thus to be settled; the boundaries of each of said districts to be distinctly marked, and the land conveyed in fee simple to each of said tribes to be held in common or by their members in severalty as the United States may decide.

Said lands thus disposed of to be paid for to the Cherokee nation at such price as may be agreed on between the said parties in interest, subject to the approval of the President; and if they should not agree, then the price to be fixed by the President.

The Cherokee nation to retain the right of possession of and jurisdiction over all of said country west of 96° of longitude until thus sold and occupied, after which their jurisdiction and right of possession to terminate forever as to each of said districts thus sold and occupied.

[REMARK:—By operation of the preceding article, the title of the Cherokee Nation to any land west of 96° is made subject to extinguishment in favor of friendly tribes of Indians selected to be settled there by the General Government; and in consequence of such agreement, the Osages, and several other tribes, have since acquired title to certain large tracts of land west of 96° formerly included in the Cherokee Patent.]

## FINAL GUARANTEE.

### TREATY OF 1866.

ART. 26. The United States guarantee to the people of the Cherokee nation the quiet and peaceable possession of their country. \* \* \* \* They shall also be protected against interruptions or intrusion from all unauthorized citizens of the United States who may attempt to settle on their lands or reside in their territory.

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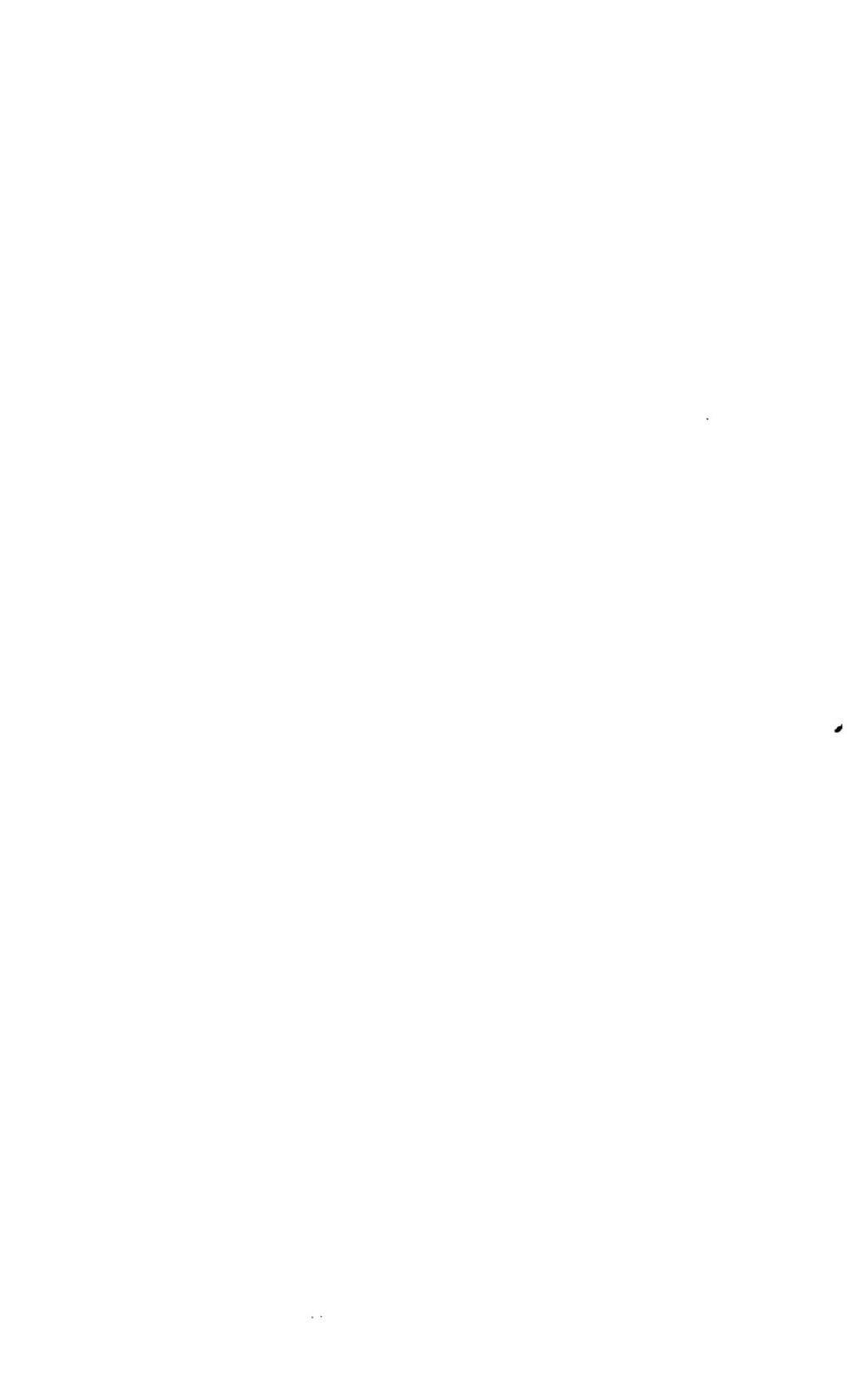
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